

WORKMEN'S COMPENSATION

Ordinances
Nos: 19 of 1934,

AN ORDINANCE TO PROVIDE FOR THE PAYMENT OF COMPENSATION TO WORKMEN WHO ARE INJURED IN THE COURSE OF THEIR EMPLOYMENT.

Acts
Nos: 31 of 1957,
22 of 1959,
4 of 1966,
15 of 1990,
10 of 2005.

[1st August, 1935.]

PART I

Short title.

1. This Ordinance may be cited as the Workmen's Compensation Ordinance.

Interpretation.

2 (1) In this Ordinance, unless the context otherwise requires -

[§ 2, 15 of 1990.]

“Commissioner” means any person appointed under section 26 to be or to act as Commissioner or as a Deputy Commissioner for Workmen's Compensation, and includes any person appointed under section 27 to be or to act as an Assistant Commissioner for Workmen's Compensation;

“compensation” means compensation as provided for in this Ordinance;

“dependant” means any of the following relatives of a deceased workman, namely:-

(a) a wife, a minor legitimate son, an unmarried legitimate daughter, or a widowed mother; and

(b) if wholly or in part dependent on the earnings of the workman at the time of his death, a husband, a parent other than a widowed mother, a minor illegitimate son, an unmarried illegitimate daughter, a daughter legitimate or illegitimate if married and a minor or if widowed, a minor brother, an unmarried or widowed sister, a widowed daughter-in law, a minor child of a deceased son or deceased daughter or, where no parent of the workman is alive, a paternal grandparent;

[§ 2,15 of 1990.]

“employer” includes the Republic of Sri Lanka and any body of persons whether corporate or unincorporate and any managing agent of an employer and the heirs, executors or administrators of a deceased employer, and, when the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, means such other person while the workman is working for him;

[§ 2 15 of 1990.]

“local authority” includes a Municipal Council, an Urban Council and a Pradeshiya Sabha;

“managing agent” means any person appointed or acting as the representative of another person for the purpose of carrying on such other person's trade or business, but does not include an individual manager subordinate to an employer;

“partial disablement” means, where the disablement is of a temporary nature, such disablement as reduces the earning capacity of a workman in any employment in which he was engaged at the time of the accident resulting in the disablement, and, where the disablement is of a permanent nature, such disablement as reduces his earning capacity in every employment which he was capable of undertaking at that time:

Provided that every injury specified in Schedule 1 shall be deemed to result in permanent partial disablement;

“prescribed” means prescribed by this Ordinance or by any regulation made thereunder;

“registered medical practitioner” means a person registered as a medical practitioner under the Medical Ordinance, or under any enactment amending that Ordinance;

“registered ship” means any sea-going ship or boat of any description which is registered or required to be registered in Sri Lanka as a Sri Lanka ship;

“regulation” means a regulation made under this Ordinance:

“seaman” means any person forming part of the crew of any registered ship, but does not include the master of any such ship;

“total disablement” means such disablement, whether of a temporary or permanent nature, as incapacitates a workman for all work which he was capable of performing at the time of the accident resulting in such disablement:

[§ 2,15 of 1990.]

Provided that permanent total disablement shall be deemed to result from any combination of injuries specified in Schedule I where the aggregate percentage of the loss of earning capacity, as specified in that Schedule against those injuries, amounts to one hundred *per centum*;

“wages” includes the monetary value of any privilege or benefit which is capable of being estimated in money, other than a travelling allowance or the value of any travelling concession or a contribution paid by the employer of a workman towards any pension or provident fund or a sum paid to a workman to cover any special expenses entailed on him by the nature of his employment;

“workman” means any person who has entered into or works under a contract with an employer for the purposes of his trade or business in any capacity, whether the contract is expressed or implied, oral or in writing, and whether it is a contract of service or of apprenticeship or a contract personally to execute any work or labour and whether the remuneration payable thereunder is calculated by time, or by work done or otherwise, and whether such contract was made before or after the coming into force of this definition, but does not include -

- (a) a person working in the capacity of a member of the Armed Forces of Sri Lanka other than a person employed in a civilian capacity in any of those forces;
- (b) a member of the police force of Sri Lanka; and

(2) A reference to a workman who has been injured shall, where the workman is dead, include a reference to his dependants or any of them.

[§ 2, 15 of 1990.]

(3) The exercise and performance of the powers and duties of any department of the Government, Provincial Council or any local authority shall, for the purposes of this Ordinance, unless a contrary intention appears, be deemed to be the trade or business of that department, Council or local authority.

PART II LIABILITY TO PAY COMPENSATION

Employer's liability to pay compensation for injury suffered by a workman.

3. If personal injury is caused to a workman by accident arising out of and in the course of his employment his employer shall be liable to pay compensation in accordance with the provisions of this Ordinance:

Provided that the employer shall not be so liable-

[§ 3,15 of 1990.]

- (a) in respect of any injury which does not result in the total or partial disablement of the workman for a period exceeding three days;
- (b) in respect of any injury, not resulting in death, caused by an accident which is directly attributable to -
 - (i) the workman having been at the time thereof under the influence of drink or drugs, or
 - (ii) the wilful disobedience of the workman to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of workmen, or
 - (iii) the wilful removal or disregard by the workman of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of workmen.

Employer's liability to pay compensation for certain diseases contracted by a workman. [§ 3,31 of 1957.]

4. (1) If a workman -

- (a) contracts an occupational disease described in the first column of Part A of Schedule III whilst he is employed in any process described in the corresponding entry in the second column of that Part, or
- (b) contracts an occupational disease described in the first column of Part B of the aforesaid Schedule whilst he is in the service of an employer in whose service he has been employed for a continuous period of not less than six months in any process described in the corresponding entry in the second column of that Part,

the contracting of the disease shall be deemed to be an injury by accident within the meaning of section 3, and unless the employer proves the contrary, the accident shall be deemed to have arisen out of and in the course of the employment.

(2) For the purposes of this section a period of service shall be deemed to be continuous which has not included a period of service under any other employer.

Circumstances in which compensation is payable in respect of any disease. [§ 4,15 of 1990.]

5. Save as provided by section 4, no compensation shall be payable to a workman in respect of any disease unless the disease is directly attributable to a specific injury by accident arising out of and in the course of his employment or the disease is reasonably attributable to the nature of his employment.

PART III AMOUNT OF COMPENSATION

Amount of compensation.

6. (1) Subject to the provisions of this Ordinance, the amount of compensation shall be as follows, namely:-

[§ 5, 15 of 1990.]

(A) Where death results from the injury and the deceased was a workman in receipt of monthly wages falling within limits shown in the first column of Schedule IV - the amount shown against such limits in the second column thereof:

[§ 5, 15 of 1990.]

(B) Where permanent total disablement results from the injury, and the disabled workman was in receipt of monthly wages falling within limits shown in the first column of Schedule IV - the amount shown against such limits in the third column thereof; and

[§ 5, 15 of 1990.]

(C) Where permanent partial disablement results from the injury -

- (i) in the case of an injury specified in Schedule I, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury, and
- (ii) in the case of an injury not specified in Schedule I, such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity permanently caused by the injury:

Provided that in a case where more injuries than one are caused by the same accident, the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable if permanent total disablement had resulted from the injuries.

[§ 5, 15 of 1990.]

(D) Where temporary disablement, whether total or partial, results from the injury, a half-monthly payment payable on the sixteenth day from the date of the disablement, and thereafter half-monthly during the disablement or during a period of five years, whichever period is shorter, in the case of a workman in receipt of monthly wages falling within limits shown in the first column of Schedule IV - of the sum shown against such limits in the fourth column thereof:

[§ 2, 10 of 2005.]

Provided that -

- (a) there shall be deducted from any lump sum or half-monthly payments to which the workman is entitled the amount of any payment or allowance which the workman has received from the employer by way of compensation during the period of disablement prior to the receipt of such lump sum or of the first half-monthly payment, as the case may be, and
- (b) no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the workman before the accident exceeds half the amount of such wages which he is earning after the accident.

In a case where for the whole or any part of the period of disablement referred to in paragraph (a) of this proviso, a workman occupies any premises belonging to or provided by his employer and pays no rent to him for such occupation, the amount fixed by agreement between the workman and his employer or, failing such agreement, the amount determined by the Commissioner as a fair rental of the premises for the period of such occupation shall be deemed to have been received by the workman as an allowance by way of compensation from his employer for the purpose of computing the deduction to be made from any lump sum or half-monthly payments to which the workman is entitled.

(2) On the ceasing of the disablement before the date on which any half-monthly payment falls due, there shall be payable in respect of that half-month a sum proportionate to the duration of the disablement in that half-month.

(3) The use in this section of the expression "monthly wages" shall not exclude any workman from the right to compensation under this Ordinance by reason only of the fact that he is not paid at a monthly rate or that his remuneration is calculated by time or by work done or at a daily rate.

Method of calculating wages.

7 (1) For the purposes of this Ordinance the monthly wages of a workman shall be calculated as follows, namely:-

- (a) where the workman has, during a continuous period of not less than twelve months immediately preceding the accident, been in the service of the employer

who is liable to pay compensation, the monthly wages of the workman shall be one twelfth of the total wages which have fallen due for payment to him by the employer in the last twelve months of that period;

(b) where the whole of the continuous period of service immediately preceding the accident during which the workman was in the service of the employer who is liable to pay the compensation was less than one month, the monthly wages of the workman shall be deemed to be the average monthly amount which, during the twelve months immediately preceding the accident, was being earned by a workman employed on the same work by the same employer, or, if there was no workman so employed, by a workman employed on similar work in the same locality;

(c) in other cases, the monthly wages shall be thirty times the total wages earned in respect of the last continuous period of service immediately preceding the accident from the employer who is liable to pay compensation, divided by the number of days comprising such period.

(2) For the purposes of this section a period of service shall be deemed to be continuous which has not been interrupted by a period of absence from work exceeding fourteen days.

Review of
half monthly
payments.

8. (1) Any half-monthly payment payable under this Ordinance, either under an agreement between the parties or under the order of a Commissioner, may be reviewed by the Commissioner on the application, either of the employer or of the workman accompanied by the certificate of a registered medical practitioner that there has been a change in the condition of the workman, or, subject to regulations made under this Ordinance, on application made without such certificate.

(2) Any half-monthly payment may, on review under this section, subject to the provisions of this Ordinance, be continued, increased, decreased or ended, or, if the accident is found to have resulted in permanent disablement, be converted to the lump sum to which the workman is entitled less any amount which he has already received by way of half-monthly payments.

Computation of
half-monthly
payments.

9. Any right to receive half-monthly payments may, by agreement between the parties or, if the parties cannot agree and the payments have been continued for not less than six months, on the application of either party to the Commissioner, be redeemed by the payment of lump sum of such amounts as may be agreed to by the parties or determined by the Commissioner, as the case may be.

PART IV

PAYMENT, DISTRIBUTION AND RECOVERY OF COMPENSATION

Persons entitled
to compensation.

10. (1) The compensation shall be payable to or for the benefit of the workman, or, where death results from the injury, to or for the benefit of his dependants as provided by this Ordinance.

(2) Where a dependant dies before a claim under this Ordinance is made, or, if a claim has been made, before an agreement or award has been arrived at or made, the heirs, executors, or administrators of that deceased dependant shall have no right to payment of compensation, and the amount of compensation shall be calculated and apportioned as if that dependant had died before the workman.

(3) Where there are both total and partial dependants, nothing in this Ordinance shall be construed as preventing the compensation being allotted partly to the total and partly to the partial dependants.

Deposit of compensation with Commissioner in certain cases.

11 (1) No payment of compensation in respect of a workman whose injury has resulted in death, and no payment of a lump sum as compensation to a woman or a person under legal disability, shall be made otherwise than by deposit with the Commissioner, and no such payment made directly by an employer shall be deemed to be a payment of compensation:

[§ 4,31 of 1957.]
[§ 6, 15 of 1990.]
[§ 3, 10 of 2005.]

Provided that, in the case of a deceased workman, an employer may make to one or more of the dependants advances on account of compensation not exceeding an aggregate of ten thousand rupees, and so much of such aggregate as does not exceed the compensation payable to the dependant or dependants shall be deducted by the Commissioner from such compensation and repaid to the employer.

[§ 4,31 of 1957.]
[§ 6, 15 of 1990.]
[§ 3, 10 of 2005.]

(2) Any other sum amounting to not less than one thousand rupees which is payable as compensation may be deposited with the Commissioner on behalf of the person entitled thereto.

(3) The receipt of the Commissioner shall be a sufficient discharge in respect of any compensation deposited with him.

(4) Where any sum has been deposited by an employer as compensation payable in respect of a workman whose injury has resulted in death, and in the opinion of the Commissioner such sum is insufficient, the Commissioner may, by notice in writing stating his reasons, call upon the employer to show cause why he should not make a further deposit within such time as may be stated in the notice.

(5) If the employer fails to show cause to the satisfaction of the Commissioner, the Commissioner may make an award determining the total amount payable, and requiring the employer to deposit the deficiency.

Distribution of compensation.
[§ 7, 15 of 1990.]
[§ 4, 10 of 2005.]

12 (1) On the deposit of any money under section 11 as compensation in respect of a deceased workman the Commissioner shall deduct therefrom the actual cost of the workman's funeral expenses to -

- (i) an amount not exceeding ten thousand rupees, where the compensation does not exceed two hundred thousand rupees;
- (ii) an amount not exceeding fifteen thousand rupees, where the compensation does not exceed three hundred thousand rupees;
- (iii) an amount not exceeding twenty thousand rupees, where the compensation does not exceed five hundred thousand rupees,

and pay the same to the person by whom such expenses were incurred. and shall, if he thinks necessary, cause notice to be published or to be served on each dependant resident in Sri Lanka in such manner as he thinks fit, calling upon the dependants to appear before him on such date as he may fix for determining the distribution of the compensation. If the Commissioner is satisfied, after any inquiry which he may deem necessary, that no dependant exists, he shall repay the balance of the money to the employer by whom it was paid; but no such repayment shall be made until after the expiry of a period of twelve months reckoned from the date on which the money was deposited under section 11. The Commissioner shall, on application by the employer, furnish a statement showing in detail all disbursements made.

(2) Compensation deposited in respect of a deceased workman shall, subject to any deduction made under subsection (1), be apportioned among the dependants of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner, be allotted to any one dependant.

Payment of compensation.

13. (1) Where any compensation deposited with the Commissioner is payable to any person, the Commissioner shall, if the person to whom the compensation is payable is not a woman or a person under a legal disability, and may in other cases, pay the money to the person entitled thereto.

(2) Where any lump sum deposited with the Commissioner is payable to a woman or a person under a legal disability, such sum may be invested, applied or otherwise dealt with for the benefit of the woman, or of such person during his disability, in such manner as the Commissioner may direct; and where a half-monthly payment is payable to any person under a legal disability, the Commissioner may, of his own motion or on an application made to him in that behalf, order that the payment be made during the disability to any dependant of the workman or to any other person whom the Commissioner thinks best fitted to provide for the welfare of the workman.

Variation of Commissioner's order of distribution. & c.

14. (1) Where, on application made to him in this behalf or otherwise, the Commissioner is satisfied that, on account of neglect of children on the part of a parent or on account of the variation of the circumstances of any dependant or for any other sufficient cause, an order of the Commissioner as to the distribution of any sum paid as compensation or as to the manner in which any sum payable to any such dependant is to be invested, applied or otherwise dealt with, ought to be varied, the Commissioner may make such orders for the variation of the former order as he thinks just in the circumstances of the case:

Provided that no such order prejudicial to any person shall be made unless such person has been given an opportunity of showing cause why the order should not be made, or shall be made in any case in which it would involve the repayment by a dependant of any sum already paid to him.

(2) Where the Commissioner varies any order under subsection (1) by reason of the fact that payment of compensation to any person has been obtained by fraud, impersonation or other improper means, any amount so paid to or on behalf of such person may be recovered in the manner hereinafter provided in section 41.

Workman leaving Sri Lanka to reside elsewhere.

15. (1) If a workman receiving or entitled to receive a half-monthly payment intends to leave Sri Lanka in order to reside permanently in another country, he shall give the Commissioner ten days' previous notice of such intention; and the Commissioner shall forthwith inform the other party, who may agree with the workman to continue the payments in the country in which the workman intends to reside. If the parties cannot agree, either party may apply to the Commissioner for the redemption of such half-monthly payments and the Commissioner shall thereupon determine the amount of the lump sum which shall be payable in lieu of such payments.

(2) If a workman receiving or entitled to receive a half-monthly payment leaves Sri Lanka for the purpose of residing in another country without giving such notice as is required by the provisions of subsection (1), he shall, if the Commissioner after inquiry certifies in writing that he has left Sri Lanka for such purpose and without giving due notice, cease to be entitled to any benefits under this Ordinance during his absence from Sri Lanka; but he shall for the purpose of section 6(1) (d), be deemed to have received half-monthly payments during such absence:

Provided that the Commissioner may revoke his certificate if he is satisfied that the workman had reasonable grounds for not giving such notice.

(3) A notice or application under this section may be given or made on behalf of any workman by the Commissioner.

Procedure for recovery of compensation. Notice and claim. [§ 5, 31 of 1957.] (§ 8, 15 of 1990.)

16. (1) No proceedings for the recovery of compensation shall be maintainable before a Commissioner unless notice of the accident has been given, in the manner hereinafter provided, as soon as practicable after the happening thereof and before the workman has voluntarily left the employment in which he was injured, and unless the claim for compensation with respect to such accident has been instituted within two years of the occurrence of the accident or, in the case of death, within two years from the date of death:

[§ 8, 15 of 1990.]

Provided that, where the accident is the contracting of a disease in respect of which the provisions of section 4 or section 5 are applicable, the accident shall be deemed to have occurred on the first of the days during which the workman was continuously absent from work in consequence of the disablement caused by the disease:

Provided further that the want of or any defect or irregularity in a notice shall not be a bar to the maintenance of proceedings -

- (a) if the claim is made in respect of the death of a workman resulting from an accident which occurred on the premises of the employer, or at any place where the workman at the time of the accident was working under the control of the employer or of any person employed by him, and the workman died on such premises or at such place, or on any premises belonging to the employer, or died without having left the vicinity of the premises or place where the accident occurred, or
- (b) if the employer is proved to have had knowledge of the accident from any other source at or about the time of the accident, or if it is found in the proceedings for settling the claim that the employer is not, or would not, if a notice or an amended notice were then given and the hearing postponed, be prejudiced in his defence by the want, defect or irregularity, or that such want, defect or irregularity was occasioned by mistake, absence from Sri Lanka, or other reasonable cause.

(2) The Commissioner may admit and decide any claim to compensation in any case notwithstanding that the notice required by subsection (1) has not been given, or that the claim has not been instituted in due time as required by that subsection, if he is satisfied that the failure so to give notice or to institute a claim, as the case may be, was due to sufficient cause.

Form of notice.

17. A notice under section 16 may be given either in writing or orally to the employer (or, if there is more than one employer, to one of such employers), or to any foreman or other official under whose supervision the workman is employed, or to any person designated for the purpose by the employer, and shall give the name and address of the person injured, and shall state in ordinary language the cause of the injury and the date at which the accident occurred.

Notice book.

18 (1) The Minister may by regulation require any specified class of employers to maintain at their premises at which workmen are employed a notice-book in the prescribed form which shall be readily accessible at all reasonable times to any workman who is injured while employed on the premises and to any person acting bona fide on his behalf.

(2) Any employer who acts in contravention of any regulation made by the Minister under subsection (1) shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees.

[§ 9, 15 of 1990.]

Service of notice.

19. A notice under section 16 may be served by delivering it at, or sending it by registered post addressed to, the residence or any office or place of business of the person on whom it is to be served, or, where a notice-book is maintained, by entry in the notice-book.

Power of Commissioner to require statements from employers regarding fatal accidents.

20. (1) Where a Commissioner receives information from any source that a workman has died as a result of an accident arising out of and in the course of his employment, he may send by registered post a notice to the workman's employer requiring him to submit, within thirty days of the service of the notice, a statement, in the prescribed form, giving the circumstances attending the death of the workman, and indicating whether, in the opinion of the employer, he is or not liable to deposit compensation on account of the death.

[§ 6, 31 of 1957.]

(2) Where an employer is served with a notice under subsection (1), he shall, unless he disclaims liability to deposit compensation on any ground other than the ground that there are no dependants of the deceased workman, make the deposit within thirty days after the service of the notice.

(3) If the employer is of opinion that he is not liable to deposit compensation, he shall in his statement indicate the grounds on which he disclaims liability.

(4) Where the employer has so disclaimed liability, the Commissioner, after such inquiry as he may think fit, may inform any of the dependants of the deceased workman that it is open to the dependants to prefer a claim for compensation, and may give them such other or further information as he may think fit.

Medical examination.

21 (1) Where a workman has given notice of an accident, he shall, if the employer, before the expiry of three days from the time at which service of the notice has been effected, offers to have him examined free of charge by a registered medical practitioner, submit himself for such examination, and any workman who is in receipt of a half-monthly payment under this Ordinance shall, if so required, submit himself for such examination from time to time:

Provided that a workman shall not be required to submit himself for examination by a medical practitioner otherwise than in accordance with regulations made under this Ordinance, or at more frequent intervals than may be prescribed.

(2) If a workman, on being required to do so by the employer under subsection (1) or by the Commissioner at any time, refuses to submit himself for examination by a registered medical practitioner or in any way obstructs the same, his right to compensation shall be suspended during the continuance of such refusal or obstruction unless, in the case of refusal, he was prevented by any sufficient cause from so submitting himself.

(3) If a workman, before the expiry of the period within which he is liable under subsection (1) to be required to submit himself for medical examination, voluntarily leaves without having been so examined the vicinity of the place in which he was employed or the place in which he was resident at the time of the accident his right to compensation shall be suspended until he returns and offers himself for such examination.

(4) Where a workman, whose right to compensation has been suspended under subsection (2) or subsection (3), dies without having submitted himself for medical examination as required by either of those subsections, the Commissioner may, if he thinks fit, direct the payment of compensation to the dependants of the deceased workman.

(5) Where under subsection (2) or subsection (3) a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension, and, if the period of suspension commences before the expiry of the waiting period referred to in clause (d) of subsection (1) of section 6, the waiting period shall be increased by the period during which the suspension continues.

[§ 7, 31 of 1957.]

(6) Where the employer of an injured workman offers to him the services of a registered medical practitioner free of charge and -

- (a) the workman accepts such offer but deliberately disregards the instruction of the registered medical practitioner, or
- (b) the workman refuses to accept such offer and thereafter either fails to take treatment regularly from a registered medical practitioner or whilst being regularly attended by a registered medical practitioner deliberately disregards the instructions of such practitioner,

then, if the disregard referred to in paragraph (a) or the refusal and failure or disregard referred to in paragraph (b) is or are unreasonable in the circumstances of the case and the injury is aggravated thereby, the injury and the resulting disablement shall be deemed to be of the same nature and duration as they might reasonably be expected to be if the workman had been regularly attended by a registered medical practitioner and had not deliberately disregarded the instructions of such practitioner; and compensation, if any, shall be payable accordingly.

Right of workman to recover compensation from principal or contractor under whom he is employed.

22. (1) Where any person (hereinafter in this section referred to as the principal) in the course of or for the purpose of his trade or business contracts with any other person (hereinafter in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation which he would have been liable to pay if that workman had been immediately employed by him; and where compensation is claimed from the principal, this Ordinance shall apply as if reference to the principal were substituted for references to the employer except that the amount of compensation shall be calculated with reference to the wages of the workman under the employer by whom he is immediately employed.

(2) Where the principal is liable to pay compensation under this section he shall be entitled to be indemnified by the contractor, or any other person from whom the workman could have recovered compensation and where a contractor who is himself a principal is liable to pay compensation or to indemnify a principal under this section he shall be entitled to be indemnified by any person standing to him in the relation of a contractor from whom the workman could have recovered compensation; and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the Commissioner.

(3) Nothing in this section shall be construed as preventing a workman from recovering compensation from the contractor instead of the principal.

(4) This section shall not apply in any case where the accident occurred elsewhere than on, in or about the premises on which the principal has undertaken or usually undertakes, as the case may be, to execute the work or which are otherwise under his control or management.

Remedies of employer against third parties.

23. Where a workman has recovered compensation in respect of any injury caused under circumstances creating a legal liability of some person other than the person by whom the compensation was paid to pay damages in respect thereof, the person by whom the compensation was paid and any person who has been called on to pay an indemnity under section 22 shall be entitled to be indemnified by the person so liable to pay damages as aforesaid.

Imposition of surcharge on employers for failure to pay compensations on due date. [§ 10, 15 of 1990.] Insolvency of employer.

23A. Where the amount payable in terms of an award for the payment of compensation is not paid within a period of thirty days from the date of the award, the employer shall be liable to pay in addition to such compensation, a surcharge of a sum equivalent to ten *per centum* of the amount of such compensation.

24. (1) Where any employer has entered into a contract with any insurer in respect of any liability under this Ordinance to any workman, then in the event of the employer becoming insolvent or making a composition or scheme of arrangement with his creditors or, if the employer is a company, in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that liability shall, notwithstanding anything in any law for the time being in force relating to insolvency or the winding up of companies, be transferred to and vest in the workman, and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so, however, that the insurers shall not be under any greater liability to the workman than they would have been under to the employer.

(2) If the liability of the insurers to the workman is less than the liability of the employer to the workman, the workman may prove for the balance in the insolvency proceedings or liquidation.

(3) Where in any case such as is referred to in subsection (1) the contract of the employer with the insurers is void or voidable by reason of non-compliance on the part of the employer with any terms or conditions of the contract (other than a stipulation for the payment of premia), the provisions of that subsection shall apply as if the contract were not void or voidable, and the insurers shall be entitled to prove in the insolvency proceedings or liquidation for the amount paid to the workman:

Provided that the provisions of this subsection shall not apply in any case in which the workman fails to give notice to the insurers of the happening of the accident and of any resulting disablement as soon as practicable after he becomes aware of the institution of the insolvency or liquidation proceedings and that the employer was insured and with whom.

- (4) There shall be deemed to be included among the debts which-
- (a) under section 96 of the Insolvency Ordinance are to be paid out of the estate and effects of an insolvent before any other debts, and
 - (b) under section 253(1)(c) and (d) of the Companies Ordinance* are, in the distribution of the assets of any company being wound up, to be paid in priority to other debts,

the amount due in respect of any compensation or liability for compensation accrued before the following dates, that is to say:-

- (i) in the first case, the date of the adjudication of insolvency;
- (ii) in the second case, the date of the commencement of the winding up of the company;

and the provisions of the two Ordinances mentioned in this subsection shall apply accordingly.

(5) Where the compensation is a half-monthly payment, the amount due in respect thereof shall, for the purposes of this section, be taken to be the amount of the lump sum for which the half-monthly payment could, if redeemable, be redeemed if application were made for that purpose under section 9, and a certificate of the Commissioner as to the amount of such sum shall be conclusive proof thereof.

(6) The provisions of subsection (4) shall apply in the case of any amount for which as insurer is entitled to prove under subsection (3), but otherwise those provisions shall not apply where the insolvent or the company being wound up has entered into such a contract with insurers as is referred to in subsection (1).

(7) This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

PART V MASTERS AND SEAMEN

Special provisions
relating to
masters and seamen.

25. This Ordinance shall apply in the case of workmen who are masters of registered ships or seamen subject to the following modifications, namely:-

(a) The notice of the accident and the claim for compensation may, except where the person injured is the master of the ship, be served on the master of the ship as if he were the employer, but where the accident happened and the disablement commenced on board the ship, it shall not be necessary for any seaman to give any notice of the accident.

(b) In the case of the death of a master or seaman, the claim for compensation shall be made within six months after the news of the death has been received by the claimant or, where the ship has been or is deemed to have been lost with all hands, within eighteen months of the date on which the ship was, or is deemed to have been, so lost.

* Repealed by the Companies Act, No.17 of 1982. Act, No. 17 of 1982 repealed by Act, No. 7 of 2007.

(c) Where an injured master or seaman is discharged or left behind in a foreign country, any depositions taken by any consular officer in the foreign country and transmitted by him shall, in any proceedings for enforcing the claim, be admissible in evidence -

- (i) if the depositions is authenticated by the signature of the consular officer before whom it is made;
- (ii) if the defendant or the person accused, as the case may be, had an opportunity by himself or his agent to cross-examine the witness; and
- (iii) if the deposition was made in the course of a criminal proceeding, on proof that the deposition was made in the presence of the person accused;

and it shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness and that the deposition if made in a criminal proceeding was made in the presence of the person accused shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.

(d) In the case of the death of a master or seaman leaving no dependants, the Commissioner shall, if the owner of the ship is under any law in force for the time being in Sri Lanka relating to merchant shipping liable to pay the expenses of burial of the master or seaman, return to the employer the full amount of the compensation deposited under section 11 without making the deduction referred to in section 12.

(e) No half-monthly payment shall be payable in respect of the period during which the owner of the ship is, under any law in force for the time being in Sri Lanka relating to merchant shipping, liable to defray the expenses of maintenance of the injured master or seaman.

PART VI

APPOINTMENT OF COMMISSIONER AND OTHER OFFICERS

Appointment of
Commissioner
and Deputy
Commissioners.
[§ 2,22 of 1959.]

26. There may be appointed, by name or by office, a Commissioner for Workmen's Compensation for Sri Lanka and such number of Deputy Commissioners for Workmen's Compensation for the Island as may be necessary.

Appointment of
Assistant
Commissioners.

27. There may be appointed such number of Assistant Commissioners for Workmen's Compensation as may be necessary, for such local areas as may be specified in the respective notifications relating to their appointments.

All officers
deemed to be
public servants.

28. Any officer appointed under section 26 or section 27 shall be deemed to be a public servant within the meaning of the Penal Code.

Protection of
public servants.

29. No action shall be maintained against any public servant for anything by him done or omitted to be done in good faith under this Ordinance.

PART VII

PROCEEDINGS BEFORE COMMISSIONERS

Disputes to be settled by Commissioner.

30. If any question arises in any proceeding under this Ordinance as to the liability of any person to any compensation (including any question as to whether a person injured is or is not a workman), or as to the amount or duration of compensation (including any question as to the nature or extent of disablement), or as to the age of any workman or dependant, the question shall, in default of agreement, be settled and determined by a Commissioner.

Each Commissioner to deal with matters relating to accidents in his local area.

31. Where any matter is under this Ordinance required to be done by or before a Commissioner, the same shall, subject to the provisions of this Ordinance and to any regulations made thereunder, be done by or before a Commissioner entitled to function as such in the local area in which the accident took place which resulted in the injury:

Provided that, where the workman is the master of a registered ship or a seaman, any such matter may be done by or before a Commissioner entitled to function as such in the local area in which the owner or agent of the ship resides or carries on business.

Commissioner entitled to assistance of experts.

32. Any Commissioner may, for the purpose of deciding any matter referred to him for decision under this Ordinance, choose one or more persons possessing special knowledge of any matter relevant to the matter under inquiry, to assist him in holding the inquiry.

Transfer of case from one Commissioner to another.

33. (1) If a Commissioner is satisfied by any party to any proceedings under this Ordinance pending before him that such matter can be more conveniently dealt with by any other Commissioner, whether in the same province or not, he may, subject to regulations made under this Ordinance, order such matter to be transferred to such other Commissioner either for report or for disposal, and, if he does so, shall forthwith transmit to such other Commissioner all documents relevant for the decision of such matter and, where the matter is transferred for disposal, shall also transmit in the prescribed manner any money remaining in his hands or invested by him for the benefit of any party to the proceedings.

(2) The Commissioner to whom any matter is so transferred shall, subject to regulations made under this Ordinance, inquire thereinto, and, if the matter was transferred for report, return his report thereon or, if the matter was transferred for disposal, continue the proceedings as if they had originally commenced before him.

(3) On receipt of a report from a Commissioner to whom any matter has been transferred for report under subsection (1), the Commissioner by whom it was referred shall decide the matter referred in conformity with such report.

Form of application to Commissioner for settlement of question in dispute.

34. (1) No application for the settlement of any matter by a Commissioner, other than an application by a dependant or dependants for compensation, shall be made unless and until some question has arisen between the parties in connection therewith which they have been unable to settle by agreement.

(2) An application to a Commissioner may be made in such form and shall be accompanied by such fee, if any, as may be prescribed, and shall contain, in addition to any particulars which may be prescribed, the following particulars, namely:-

- (a) a concise statement of the circumstances in which the application is made and the relief or order which the applicant claims;
- (b) in the case of a claim for compensation against an employer, the date of service of notice of the accident on the employer and, if such notice has not been served or has not been served in due time, the reason for such omission;
- (c) the names and addresses of the parties; and

(d) except in the case of an application by dependants for compensation, a concise statement of the matters on which agreement has and of those on which agreement has not been come to.

(3) If the applicant is illiterate or for any other reason is unable to furnish the required information in writing, the application shall, if the applicant so desires, be prepared under the direction of the Commissioner.

Powers of
Commissioner.

35. A Commissioner shall have all the powers of a civil court under the Civil Procedure Code, for the purpose of taking evidence on oath (which such Commissioner is hereby empowered to impose) and of enforcing the attendance of witnesses and compelling the production of documents and material objects; and a Commissioner shall be deemed to be a civil court for all the purposes of section 135 and Chapter XXXII of the Code of Criminal Procedure Act.

Appearance of
parties.

36. Any appearance, application or act required to be made or done by any person before or to a Commissioner (other than an appearance of a party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by a legal practitioner or by a representative authorized in writing by such person and approved by the Commissioner.

Method of
recording
evidence.

37. The Commissioner shall make a brief memorandum of the substance of the evidence of every witness as the examination of the witness proceeds, and such memorandum shall be signed by the Commissioner and shall form part of the record:

Provided that, if the Commissioner is prevented from making such memorandum, he shall record the reason of his inability to do so and shall cause such memorandum to be made from his dictation and shall sign the same, and such memorandum shall form part of the record:

Provided, further, that the evidence of any medical witness shall be taken down as nearly as may be word for word.

Costs.

38. All costs incidental to any proceedings before a Commissioner shall, subject to regulations made under this Ordinance, be in the discretion of the Commissioner.

Submission of
question of law
for opinion of
Court of Appeal.

39. A Commissioner may, if he thinks fit, submit any question of law for the opinion of the Court of Appeal, and, if he does so, he shall decide that question in conformity with such opinion.

Civil court has no
jurisdiction over
matters required
to be dealt with
by Commissioner.
[§ 8,31 of 1957.]

40. No civil court shall have jurisdiction to settle, decide or deal with any question which is by or under this Ordinance required to be settled, decided or dealt with by a Commissioner or, except as provided in section 41(2), to enforce any liability incurred under this Ordinance.

Recovery of
amounts due.
[§ 11, 15 of 1990.]

41. (1) The Commissioner may recover any sum or amount due from or payable by any person under this Ordinance whether under an agreement or in terms of an award for the payment of compensation or otherwise, (including any sum payable by way of costs or surcharge imposed under section 23A) as if it were a fine imposed by a Magistrate upon such person, and for the purposes of such recovery shall have all the powers conferred upon a Magistrate for the recovery of fines imposed by him.

[§ 9, 31 of 1957.]

(2) If any sum referred to in subsection (1) cannot be recovered in the manner specified in that subsection within six months from the date on which such sum becomes due from the person liable to pay it, the Commissioner may make application, where such sum exceeds one thousand five hundred rupees, to the District Court or, where such sum does not exceed one thousand five hundred rupees, to the Primary Court, within whose jurisdiction such person resides, for the recovery of such sum by the seizure and sale of the immovable property of such person, and, upon such application being made, the court shall issue to the Fiscal a writ for the recovery of such sum by the seizure and

sale of such immovable property. The provisions of the Civil Procedure Code relating to the seizure and sale of immovable property by the Fiscal in execution of a writ issued by a court and to the making and adjudication of claims in respect of immovable property seized by the Fiscal shall apply to the seizure and sale of immovable property for the recovery of the sum specified in the Commissioner's application and to the making and adjudication of claims in respect of immovable property seized for the recovery of such sum. For the purpose of the application of such provisions the sum so specified shall be deemed to be due on a decree entered by the court and the Commissioner shall be deemed to be the judgement-creditor and the person liable to pay such sum shall be deemed to be the judgement-debtor.

PART VIII

REGISTRATION OF AGREEMENTS

Memorandum of agreement to be sent to Commissioner.

42. Where the amount of any lump sum payable as compensation has been settled by agreement, whether by way of redemption of a half-monthly payment or otherwise, or where any compensation has been so settled as being payable to a woman or a person under legal disability, a memorandum thereof shall be sent by the employer to the Commissioner, who shall, on being satisfied as to its genuineness, record the memorandum in a register in the prescribed manner:

Provided that -

- (a) no such memorandum shall be recorded before seven days after communication by the Commissioner of notice to the parties concerned;
- (b) the Commissioner may at any time rectify the register;
- (c) where it appears to the Commissioner that an agreement as to the payment of a lump sum whether by way of redemption of a half-monthly payment or otherwise, or an agreement as to the amount of compensation payable to a woman or a person under a legal disability ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence or other improper means, he may refuse to record the memorandum of the agreement and may make such order including an order as to any sum already paid under the agreement, as he thinks just in the circumstances.

Effect of failure to send memorandum of agreement to Commissioner.
[§ 10,31 of 1957.]

43. Where a memorandum of any agreement, the registration of which is required by section 42, is not sent to the Commissioner as required by that section, the employer shall be guilty of an offence and shall, on conviction after summary trial by a Magistrate, be liable to pay a fine not exceeding one thousand rupees, and shall also be liable to pay the full amount of compensation which he is liable to pay under the provisions of this Ordinance, and notwithstanding anything contained in the proviso to subsection (1) of section 6, shall not, unless the Commissioner otherwise directs, be entitled to deduct more than half of any amount paid to the workman by way of compensation whether under the agreement or otherwise.

Cancellation of registration of memorandum.

44. The Commissioner may, within six months after the registration of any memorandum of agreement referred to in section 42, order that the registration shall be cancelled if it is proved to his satisfaction that the agreement has been obtained by fraud or undue influence or other improper means, and may make such order, including an order as to any sum or amount already paid under the agreement and an order for the registration of a new agreement, as he thinks just in the circumstances.

PART IX

INSURANCE

Licence to undertake insurance for the purposes of the Ordinance.

45. (1) It shall be lawful for the Commissioner on payment to him of the prescribed fees, to issue a licence to any person to undertake insurance against liabilities to workmen which may be incurred by employers under this Ordinance, if it is shown to his satisfaction, after such inquiry as he may think fit to make, that such person is financially able to under take such insurance.

(2) Every person who undertakes any such insurance without being licensed for that purpose under subsection (1), and every employer who insures against any such liability with a person who has not been licensed under that subsection, shall be guilty of an offence and shall, on conviction after summary trial by a Magistrate, be liable to a fine not exceeding one thousand rupees.

(3) In this section, "person" includes the agent of a person who undertakes to insure an employer against his liability to pay compensation under this Ordinance.

(4) No prosecution shall be entered against any person for a breach of the provisions of this section except on the complaint of the Commissioner or with his written sanction.

Commissioner empowered to inspect accounts of licensee.

46. Every person licensed under section 45 shall produce for the inspection of the Commissioner at such times as the Commissioner may require, all the accounts of the insurance business which he undertakes for the purposes of this Ordinance, and in default of so doing shall be guilty of an offence and shall, on conviction after summary trial by a Magistrate, be liable for each offence to a fine not exceeding one hundred rupees.

Suspension or cancellation of licence.

47. (1) It shall be lawful for the Commissioner to suspend or cancel any licence issued to any person under section 45 -

(a) if he is satisfied that such person is no longer financially able to undertake insurance against liabilities which may be incurred by employers under this Ordinance; or

(b) if such person has been guilty of fraud, or has made undue delay in the payment or non-payment of claims arising out of such insurance; or

(c) if such person has been convicted under section 46.

[§ 12,15 of 1990.]

(2) An order made under subsection (1) for the suspension or cancellation of a licence shall be subject to an appeal to the High Court established under Article 154 P of the Constitution in the manner hereinafter provided.

PART X

APPEALS

Appeals

[§ 13, 15 of 1990.]

48. (1) An appeal on a point of law shall lie to the High Court established under article 154P of the Constitution within whose jurisdiction the aggrieved party resides against any order made by the Commissioner.

(2) No person shall appeal against an order made by the Commissioner unless such person is a party aggrieved by the order against which he appeals.

[§ 13, 15 of 1990.]

(3) For the purpose of disposing of any appeal on a point of law, the High Court established under article 154 P of the Constitution within whose jurisdiction the aggrieved party resides may vary, modify or reverse the finding of the Commissioner on any question of fact.

(4) An employer shall not be entitled to appeal on a point of law against an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or against an order disallowing a claim in full or in part for a lump sum unless the petition of appeal is accompanied by a certificate by the Commissioner to the effect that the appellant has deposited with him the amount payable under the order appealed against.

(5) No appeal shall lie in any case in which the parties have agreed in writing to abide by the decision of the Commissioner or in which the order of the Commissioner gives effect to an agreement so made by the parties.

[§ 11, 31 of 1957.]
[§ 13, 15 of 1990.]

(6) Every petition of appeal shall be accompanied by a duplicate thereof, and the Registrar of the High Court established under Article 154P of the Constitution within whose jurisdiction the aggrieved party resides shall transmit such duplicate the Commissioner.

[§ 13, 15 of 1990.]

(7) The Commissioner shall cause the amount deposited with him under subsection (4) to be deposited in an account, bearing interest, in the National Savings Bank established by the National Savings Bank Act, No.30 of 1971.

Time limit for
appeals.
[§ 14, 15 of 1990.]

49. (1) Every petition of appeal shall bear uncanceled stamps to the value of hundred rupees and shall be filed in the High Court established under Article 154P of the Constitution within a period of thirty days reckoned from the date of the order against which the appeal is preferred.

(2) In computing the time within which an appeal must be preferred the day on which the order appealed against was made shall be included, but all public holidays shall be excluded.

Costs of
appeals.
[§ 15, 15 of 1990.]

50. A High Court established under Article 154P of the Constitution shall have power in all appeals under this Part to award such costs to be paid by or to the parties thereto as the court may consider just:

Provided that in no case shall an order for costs be made against the Commissioner.

Procedure in appeal.

51. Subject to the provisions of this Part, the provisions of Chapter XXVIII of the Code of Criminal Procedure Act, relating to appeals from Magistrates' Courts, shall apply *mutatis mutandis*, in regard to all matters connected with the hearing and disposal of an appeal preferred under section 48 and, for such purpose, the order of the Commissioner shall be deemed to be the order of a court.

Hearing of
submission on
question of law.

52. The Court of Appeal may hear the Commissioner or any party concerned, in person or by counsel, when any question of law is submitted for opinion under section 39.

Withholding of
certain payments
pending decision
of appeal.

53. Where an employer prefers an appeal on a point of law against an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or against an order disallowing a claim in full or in part for a lump sum, the Commissioner may, and if so directed by the Court of Appeal shall, pending the decision of the appeal, withhold payment of any sum deposited with him:

[§ 16, 15 of 1990.]

Provided that the Commissioner may distribute, in such manner as he may think fit, out of any sum in deposit with him, a sum not exceeding one-tenth of the sum payable under his order, or two thousand five hundred rupees, whichever is less, among persons entitled under his order to receive compensation who, in his opinion, are unable to support themselves, and in the event of the appeal being successful any sum so paid by the Commissioner to any person shall be deemed to be a debt due from that person to the employer and may be sued for and recovered by the employer in a civil court of competent jurisdiction.

Appeal to Supreme Court from High Court and powers of Supreme Court on appeal.
[§ 17, 15 of 1990.]

53A. (1) Any workman, or employer who is aggrieved by any final order, of a High Court established under Article 154P of the Constitution in the exercise of the appellate jurisdiction vested in it by subsection (1) of section 48, may appeal therefrom to the Supreme Court with the leave of that Court first had and obtained.

(2) The Supreme Court shall have sole and exclusive cognizance by way of appeal from any order made by such High Court, in the exercise of the jurisdiction vested in such High Court by subsection (1) of section 48 and it may affirm, reverse or vary any such order of such High Court and may issue such directions to the Commissioner or order a new trial or further hearing in any proceedings as the justice of the case may require and may also call for and admit fresh or additional evidence if the interest of justice so demands and may in such event, direct that such evidence be recorded by such High Court or the Commissioner.

Payment of amount deposited along with interest on final determination of the appeal.
[§ 17, 15 of 1990.]

53B. Where a High Court established by Article 154P of the Constitution, on an appeal preferred to it under section 48 or the Supreme Court on an appeal made to it from an order or such High Court:-

- (a) affirms the order of the Commissioner from which the appeal is preferred, the Commissioner shall cause the amount deposited under section 48 (4) together with the accumulated interest thereon less the sum distributed under the proviso to section 53 to be paid to the workman;
- (b) reverse the order of the Commissioner from which the appeal is preferred, the Commissioner shall cause the amount deposited under section 48(4) together with the accumulated interest thereon, to be returned to the appellant;
- (c) varies the order of the Commissioner from which the appeal is preferred, the Commissioner shall cause the sum required to satisfy the order of the High Court or the Supreme Court, as the case may be together with interest on that sum less the sum distributed under the proviso to section 53 to be paid to the workman out of the amount deposited under section 48 (4), and shall cause the balance, if any, of such amount and interest thereon, to be returned to the appellant.

PART XI

REGULATIONS

Regulations.

54. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Ordinance.

(2) In particular, and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations for or in respect of all or any of the following matters, namely:-

- (a) for prescribing the intervals at which and the conditions subject to which an application for review may be made under section 8 when not accompanied by a medical certificate;
- (b) for prescribing the intervals at which and the conditions subject to which a workman may be required to submit himself for medical examination under subsection (1) of section 21;
- (c) for prescribing the procedure to be followed by Commissioners in the disposal of cases under this Ordinance and by the parties in such cases;
- (d) for regulating the transfer of matters and cases from one Commissioner to another and the transfer of money in such cases;

- (e) for prescribing the manner in which money in the hands of a Commissioner may be invested for the benefit of dependants of a deceased workman and for the transfer of moneys so invested from one Commissioner to another;
- (f) for the representation in proceedings before Commissioners of parties who are minors or are unable to make an appearance;
- (g) for prescribing the form and manner in which memoranda of agreements shall be presented and registered;
- (h) for the withholding by Commissioners, whether in whole or in part, of half-monthly payments pending decision on applications for review of the same;
- (i) for regulating the scales of costs which may be allowed in proceedings and appeals under this Ordinance;
- (j) for prescribing and determining the amount of the fees payable in respect of any proceedings before a Commissioner under this Ordinance;
- (k) for the maintenance by Commissioners of registers and records of proceedings before them;
- (l) for prescribing the classes of employers who shall maintain notice-books and the form of such notice-books;
- (m) for prescribing the form of statement to be submitted by employers under section 20;
- (n) all matters stated or required in this Ordinance to be prescribed; and
- (o) generally for all matters incidental to or connected with the matters or subjects specifically mentioned in this subsection.

Amendment of Schedules by regulation.

55. (1) The Minister may, by regulation, modify, add to, alter or rescind any Schedule or part of any Schedule and may substitute a new Schedule for any Schedule herein enacted:

Provided that the provisions of Schedules II and III shall not be so modified, added to, altered or rescinded nor shall any new Schedule be substituted for either of those Schedules except after notification published in the *Gazette* declaring the intention of the Minister so to effect such modification, addition, alteration, rescission or substitution, as the case may be, at a date not earlier than three months from the date of the first publication of such notification in the *Gazette*.

(2) For the purpose of the application of the provisions of any Schedule at any particular time, a reference in this Ordinance to any Schedule shall be construed as a reference to the provisions of that Schedule which are in force at that time.

Approval of regulations.

56. (1) No regulations shall have effect unless it has been approved by Parliament. Notification of such approval shall be published in the *Gazette*.

(2) Every regulation shall, upon the publication of the approval of that regulation as provided for in subsection (1), be as valid and effectual as if it were herein enacted.

PART XII

MISCELLANEOUS

Employer to report to Commissioner accidents to workmen in certain cases, and to send annual returns.

57. (1) Where a workman has been injured as a result of an accident occurring on the business premises of his employer or arising out of and in the course of his employment, and either dies within a period of seven consecutive days next succeeding that on which the accident occurred or absents himself from work for that period, his employer shall report the occurrence and the particulars of such accident to the Commissioner in the prescribed form within a period of fourteen days reckoned from the date on which the accident occurred.

(2) Every employer shall before the prescribed date in every year send to the Commissioner a correct return in the prescribed form specifying -

- (a) the injuries in respect of which compensation has been paid by him or by any insurer with whom he has entered into a contract in respect of any liability under this Ordinance during the year preceding that in which the return is made; and
- (b) the amount of such compensation; and
- (c) such other particulars in respect of such compensation as the Commissioner may require:

Provided that any further particulars required by the Commissioner under paragraph (c) of this subsection may be furnished after the prescribed date and within such period as the Commissioner may appoint.

(3) Every employer who contravenes or fails to comply with any of the provisions of this section shall be guilty of an offence and shall, on conviction after summary trial by a Magistrate, be liable to a fine not exceeding five hundred rupees;

[§ 18, 15 of 1990.]

Provided that no employer shall be guilty of a breach of subsection (1) if he proves that he had no knowledge of the accident within the period of fourteen days mentioned in that subsection.

Compensation not to be assigned, attached or charged.

58. Save as provided by this Ordinance, no lump or half-monthly payment payable under this Ordinance shall in any way be capable of being assigned or charged or be liable to attachment or pass to any person other than the workman by operation of law, nor shall any claim be set off against the same

Contracting out.

59. Any contract or agreement whether made before or after the commencement of this Ordinance whereby a workman relinquishes any right of compensation from the employer for personal injury arising out of or in the course of the employment, shall be null and void in so far as it purports to remove or reduce the liability of any person to pay compensation under this Ordinance.

Injured workman must elect between common law and statutory remedy.

60. Nothing in this Ordinance contained shall be deemed to confer any right to compensation on a workman in respect of any injury if he has instituted in a civil court an action for damages in respect of the injury against the employer or any other person; and no action for damages shall be maintainable by a workman in any court of law in respect of any injury -

- (a) if he has instituted a claim to compensation in respect of the injury before Commissioner; or
- (b) if he has agreed with his employer to accept compensation in respect of the injury in accordance with the provisions of this Ordinance.

Payment from noncontributory insurance or compensation scheme.
[§ 19, 15 of 1990.]

60A. Where any workman is entitled to any payment, from any non-contributory insurance or compensation scheme provided by the employer, for any injury caused to him by an accident arising out of or in the course of his employment, the amount of such payment shall be deducted from the amount of the compensation payable to him by the employer under this Ordinance, in respect of that injury.

[Section 2(1)]
[§ 20,15 of 1990.]

SCHEDULE 1

LIST OF INJURIES DEEMED TO RESULT IN PERMANENT/PARTIAL DISABLEMENT

<u>Injury</u>				<u>Percentage of loss of earning capacity</u>
Permanent and incurable paralysis of the limbs or injuries resulting in being permanently bedridden				100
Permanent incurable loss of mental capacity resulting in fatal incapacity to work or any other injury causing fatal incapacity to work	..	..		100
Eye Injuries				
(i) Total loss of sight in both eyes	..	..		100
(ii) Total loss of sight in one eye	..	..		50
Hearing Injuries				
(i) Total loss of hearing	..	..		60
(ii) Total loss of hearing in one ear	..	..		30
Loss of Speech				
(i) Total loss of speech	..	..	..	75
Sensory Loss				
(i) Total loss of senses of smell & taste			..	50
(ii) Total loss of sense of smell	..	..	..	25
(iii) Total loss of sense of taste	..	..	..	25
Arm Injuries				
(i) Loss of arm at or above elbow	..	..	..	75
(ii) Loss of arm at or below elbow	..	..	..	65
Hand Injuries				
(i) Loss of both hands		..	..	100
(ii) Loss of hand or loss of thumb & 4 fingers		..	..	65
(iii) Loss of thumb (both phalanges)	..	..	..	35
(iv) Loss of thumb (one phalanx)	..	..	..	20
(v) Loss of four fingers	..	..	..	60
Loss of Index finger				
(i) Three phalanges	..	..	..	30
(ii) Two phalanges	..	..	..	20
(iii) One phalanx	..	..	..	10
Loss of middle, ring and little fingers				
(i) Three phalanges	..	..	..	20
(ii) Two phalanges	..	..	..	10
(iii) One phalanx	..	..	..	05
Loss of Leg				
(i) at or above knee	..	..	..	75
(ii) at or below knee	..	..	..	65
Foot Injuries				

WORKMEN'S COMPENSATION

(i)	Loss of both feet	..	..	..	100
(ii)	Loss of one foot	..	..	..	75
Loss of Toes					
(i)	Great toe-both phalanges	..	..	..	20
(ii)	Great toe-one phalanx	..	..	..	10
(iii)	Other than great toe, if more than one lost, each				10
Miscellaneous					
(i)	Total loss of genitals	..	..	..	75
(ii)	Partial loss of genital	..	..	..	40
(iii)	Severe facial scarring or disfigurement		..	..	75
(iv)	Severe bodily disfigurement, other than facial scarring or disfigurement to a maximum of ..	..			50
(v)	Loss of single tooth	..	..	..	05
(vi)	Loss of any member or part there of not mentioned above (e.g. nose, breast, ear etc.) to be assessed by a medical officer up to a maximum of ..	..	..		50

Note: Assessment not to exceed 100% in any one accident

[Section 4]
[§13,31 of 1957]

***SCHEDULE III**

OCCUPATIONAL DISEASES

PART A

Description of Occupational Disease	Description of Process
Anthrax infection	Any employment involving - (a) work in connexion with animals infected with anthrax; (b) handling of animal carcasses or parts thereof, including hides, hoofs and horns; and (c) loading an un-loading or transport of merchandise.
Compressed air illness or its sequelae	Any process carried on in compressed air.
Poisoning by lead tetra-ethyl	Any process involving the use of lead tetra-ethyl.
Poisoning by nitrous fumes	Any process involving exposure to nitrous fumes.

* Schedule II repealed by section 21 of Act, No. 15 of 1990.

PART B

Description of Occupational Disease	Description of Process
Arsenical poisoning or its sequelae	Any process involving the production, liberation or utilization of arsenic or its compounds
Chrome ulceration or its sequelae	Any process involving the use of chromic acid or bichromate of ammonium, potassium or sodium or their preparations.
Poisoning by lead, its compounds and their sequelae	<p>Handling of ore containing lead, including fine shot alloys or in zinc factories.</p> <p>Casting of old zinc and lead in ingots.</p> <p>Manufacture of articles made of cast lead or of lead alloys.</p> <p>Employment in the polygraphic industries.</p> <p>Manufacture of lead compounds.</p> <p>Manufacture and repair of electric accumulators.</p> <p>Preparation and use of enamels containing lead.</p> <p>Polishing by means of lead files or putty powder with a lead content. All painting operations involving the preparation and manipulation of coating substances, cement or colouring substances containing lead pigments.</p>
Poisoning by mercury its amalgams and compounds and their sequelae	<p>Handling of mercury ore.</p> <p>Manufacture of mercury compounds.</p> <p>Manufacture of measuring and laboratory apparatus.</p> <p>Preparation of raw material for the hat-making industry.</p> <p>Hot gilding.</p> <p>Use of mercury pumps in the manufacture of incandescent lamps.</p> <p>Manufacture of fulminate of mercury primers.</p>
Pathological Manifestations due to-	
(a) Radium and other radio active substances;	Any process involving exposure to the action of radium, radio-active substances, or X-rays.
(b) X-rays	
Phosphorus poisoning or its sequelae	Any process involving the use of phosphorus or its preparations or compounds.
Poisoning by benzene and its homologues, or the sequelae of such poisoning	Handling benzene or any of its homologues and any process in the manufacture or involving the use of benzene or any of its homologues.
Poisoning by nitro or amido derivatives of benzene and its homologues or the	Handling any nitro or amido derivatives of benzene or any of its homologues, or any process in the manufacture or involving the use thereof.
Poisoning by the halogen derivatives of hydro-carbons of the aliphatic series.	Any process involving the production, liberation or utilization of halogen derivatives of hydro-carbons of the aliphatic series.
Primary epitheliomatous cancer of the skin.	Any process involving the handling or use of tar, pitch, bitumen, mineral oil, paraffin, or the compounds, products or residues of these substances.
Pneumoconiosis caused by	Any process involving exposure to, or the use of sclerogenic

[§ 22, 15 of 1990.]	<p>selerogenic mineral dust (silicosis, anthracosilicosis, asbestosis) and silicotuberculosis, provided that silicosis is an essential factor in causing the resultant incapacity or death.</p>	<p>mineral dust.</p>
	<p>Bronchopulmonary diseases caused by hard-metal dust.</p>	<p>Any process involving exposure to hard metal dust.</p>
	<p>Bronchopulmonary diseases caused by cotton dust (byssionosis), of flax, hemp or sisal dust.</p>	<p>Any process involving exposure to any such dust.</p>
	<p>Occupational asthma caused by sensitising agents or irritants both recognized in this regard and inherent in the work process.</p>	<p>Any process involving the use of or exposure to, such agents or irritants.</p>
	<p>Extrinsic allergic alveolitis and its sequelae caused by the inhalation of organic dusts, as prescribed.</p>	<p>Any process involving exposure to any such dust.</p>
	<p>Diseases caused by beryllium or its toxic compounds.</p>	<p>Any process involving the use of beryllium and its toxic compounds.</p>
	<p>Diseases caused by cadmium or its toxic compounds.</p>	<p>Any process involving the use of cadmium or its toxic compounds.</p>
	<p>Diseases caused by chromium or its toxic compounds.</p>	<p>Any process involving the use of chromium or its toxic compounds.</p>
	<p>Diseases caused by manganese or its toxic compounds.</p>	<p>Any process involving the use of manganese or its toxic compounds.</p>
	<p>Diseases caused by flourine or its toxic compounds.</p>	<p>Any process involving the use of fluorine or its toxic compounds.</p>
	<p>Diseases caused by carbon disulfide.</p>	<p>Any process involving exposure to carbon disulfide.</p>
	<p>Deceases caused by the toxic halogen derivatives of aliphatic or aromatic hydrocarbons.</p>	<p>Any process involving exposure to the same.</p>
	<p>Diseases caused by nitroglycerin or other nitric acid esters.</p>	<p>Any process involving the use of nitro- glycerin.</p>
	<p>Diseases caused by alcohols or ketones</p>	<p>Any process involving the use of alcohols glycols or ketones</p>
	<p>Diseases caused by asphyxiants,</p>	<p>Any process involving exposure to asphyxiants,</p>

carbon monoxide, hydrogen cyanide or its toxic derivatives, hydrogen sulfide.	carbon monoxide, hydrogen cyanide or its toxic derivatives.
Hearing impairment caused by noise.	Any process involving exposure to noise.
Diseases caused by vibration (disorders of muscles, tendons, bones, joints peripheral blood vessels or peripheral nerves.	Any process involving exposure to vibration.
Diseases caused by work in compressed air.	Any process involving exposure to the risk concerned.
Diseases caused by ionising radiations	Any process involving exposure to the action of ionising radiations
Skin diseases caused by physical, chemical or biological agents not included under other items.	Any process involving exposure to the risk concerned.
Primary epitheliomatous cancer of the skin caused by tar, pitch, bitumen, mineral oil, anthracene, or the compounds, products or residues of these substances.	-do-
Lung cancer or mesotheliomas caused by asbestos.	-do-
Infectious or parasitic disease contracted in an occupation where there is particular risk of contamination.	(a) Health or laboratory work; (b) Veterinary work; (c) Work handling animals, animal carcasses, parts of such carcasses, or merchandise which may have been contaminated by animals, animal carcasses, or parts of such carcasses. (d) Any other work carrying a particular risk of contamination.
Diseases caused by carbon bisulphide	Any process involving exposure to, or the use of fumes of carbon bisulphide, compound of carbon bisulphide or substance containing carbon bisulphide.
Diseases caused by organic phosphates	The handling of organic phosphates for destruction of pest or vermin.
Diseases caused by carbon dioxide gas	Blasting, manufacture of mineral waters, any process involving fermentation in breweries and the formation of lime in lime kilns.
Occupational cataract due to	Any process involving frequent or prolonged exposure to

WORKMEN'S COMPENSATION

exposure to glare of molten glass or red hot metal of infra red radiations.	the glare of or rays from molten glass or red hot metal or infra red radiations.
Diseases caused by carbon disulphide	<p>(a) Manufacture of Carbon disulphide;</p> <p>(b) Manufacture of artificial silk by viscose process;</p> <p>(c) Rubber industry; or</p> <p>(d) Any other industry involving the production or use of products containing carbon disulphide or exposure to emanations from carbon disulphide.</p>
Silicosis	Any process involving exposure to the inhalation of dust containing silica.
Asbestosis	The production of (i) fibre cement materials or asbestos mill board (ii) the processing of ores containing asbestos.

[Section 6]
[§ 23,15 of 1990.]
[§ 5,10 of 2005.]

SCHEDULE IV
COMPENSATION PAYABLE IN CERTAIN CASES
AMOUNT OF COMPENSATION

<i>Monthly wages of the workman injured</i>	<i>Death of workman</i>	<i>Permanent total disablement of workman</i>	<i>Half-monthly compensation for temporary disablement of Workman</i>
(1)	(2)	(3)	(4)
Rs. Rs.	Rs.	Rs.	Rs.
0 - 2,500	181,665.00	196,083.80	1,320.00
2,501 - 5,000	258,640.80	295,075.00	1,804.00
5,001 - 7,500	330,968.00	351,461.00	2,186.80
7,501 - 10,000	407,427.90	444,494.60	2,733.50
10,001 - 12,500	478,495.60	519,593.80	3,231.80
12,501 - 15,000	522,495.60	550,000.00	3,561.80
15,001 - 17,500	549,631.50	550,000.00	3,890.70
17,501 - 20,000	550,000.00	550,000.00	4,221.80
20,001 -and above	550,000.00	550,000.00	5,500.00

[Gazette No. 8134
of 19th July 1935.]

WORKMENS'S COMPENSATION

THE WORKMEN'S COMPENSATION ORDINANCE

SECTION 18

(Vide regulation No. 54 of the Regulations under section 54)

SECTION 27
NOTIFICATION

SECTION 54
(8134/19-7-1935)

THE WORKMEN'S COMPENSATION REGULATIONS, 1935
PRELIMINARY

Short title.

1. These regulations may be cited as the Workmen's Compensation Regulation, 1935.

Definition.

2. In these regulations unless there is anything repugnant in the subject or context,-

- (a) "the Ordinance" and "section" mean respectively the Workmen's Compensation Ordinance and the section thereof which is cited by number ;
- (b) "Form" means a form prescribed by the Ordinance or these regulations and appended to these regulations.

PART 1

Review of Half-monthly Payments and Commutation Thereof

When
application
may be made
without
medical
certificate.

3. Application for review of half-monthly payment under section 8 may be made without being accompanied by a medical certificate:-

- (a) by the employer, on the ground that since the right to compensation was determined the workman's wages have increased ;
- (b) by the workman, on the ground that since the right to compensation was determined his wages have diminished ;
- (c) by the workman, on the ground that the employer, having commenced to pay compensation, has ceased to pay the same, notwithstanding the fact that there has been no change in the workman's condition such as to warrant such cessation ;
- (d) either by the employer or by the workman, on the ground that the determination of the rate of compensation for the time being in force was obtained by fraud or undue influence or other improper means ;
- (e) either by the employer or by the workmen on the ground that in the determination of compensation there has been a mistake or error apparent on the face of the record. The application should be accompanied by the prescribed fees.

PART II
Medical Examination

Workmen not to be required to submit to medical examination save in accordance with regulations.

4. A workman who is required by subsection (1) of section 21 to submit himself for medical examination shall be bound to do so in accordance with the regulations contained in this Part and not otherwise.

Examination when workman and medical practitioner both on premises.

5. When such workman is present on the employer's premises, and the employer offers to have him examined free of charge by a qualified medical practitioner who is so present, the workman shall submit himself for examination forthwith.

Examination in other cases.

6. In cases to which regulation 5 does not apply, the employer may:-

- (a) send the medical practitioner to the place where the workman is residing for the time being, in which case the workman shall submit himself for medical examination on being requested to do so by the medical practitioner, or
- (b) send to the workman an offer in writing to have him examined free of charge by a qualified medical practitioner, in which case the workman shall submit himself for medical examination at the employer's premises or at such other place in the vicinity as is specified in such offer and at such time as is so specified :

Provide that:-

- (i) the time so specified shall not, save with the express consent of the workman, be between the hours of 7 p.m and 6 a.m., and
- (ii) in cases where the workman's condition renders it impossible or inadvisable that he should leave the place where he is residing for the time being, he shall not be required to submit himself for medical examination save at such place.

Restriction on number of examinations.

7. A workman who is in receipt of a half-monthly payment shall not be required to submit himself for medical examination elsewhere than at the place where he is residing for the time being more than twice in the first month following the accident, or more than once in any subsequent month.

Examination after suspension of right to compensation.

8. If a workman whose right to compensation has been suspended under subsection (2) or subsection (3) of section 21 subsequently offers himself for medical examination, his examination shall take place on the employer's premises or at such other place in the vicinity as may be fixed by the employer not being, save with the express consent the workman, more than 72 hours after the workman has so offered himself.

Examination of women.

9. (1) No woman shall without her consent be medically examined by a male practitioner, save in the presence of another woman.

(2) No woman shall be required to be medically examined by a male practitioner if she deposits a sum sufficient to cover the expenses of examination by a female practitioner.

PART III
Procedure

Introductory.

10. Save as otherwise provided in these regulations the procedure to be followed by Commissioners in the disposal of cases under the Ordinance or these regulations and by the parties in such cases shall be regulated in accordance with the regulations contained in this Part.

Applications.

11. (1) Any application of the nature referred to in section 34 may be sent to the Commissioner by registered post or may be presented to him or to any of his subordinates authorized by him in that behalf and, if so sent or presented, shall unless the Commissioner otherwise directs, be in duplicate substantially in Form A or Form B as the case may be.

(2) There shall be appended to every such application a certificate, to the effect that the statement of facts contained in the application is to the best of the applicant's knowledge and belief accurate.

(3) The application and the certificate shall be subscribed with the signature or mark of the applicant and accompanied by the fee prescribed in these regulations.

Examination of applicant.

12. (1) On receiving such application, the Commissioner may examine the applicant on oath, or may send the application to any other Commissioner for report or for disposal.

(2) The substance of any examination made under paragraph (1) shall be recorded in the manner provided for the recording of evidence in section 37.

Summary dismissal of application.

13. The Commissioner may, after considering the application under regulation 12 summarily dismiss the application, if for reasons to be recorded, he is of opinion that there are no sufficient grounds for proceeding thereon.

Preliminary inquiry into application.

14. If the application is not dismissed under regulation 13 the Commissioner may, for reasons to be recorded, call upon the application before calling upon any other party, and if upon considering such evidence the Commissioner is of opinion that there is no case for the relief claimed, he may dismiss the application with a brief statement of his reasons for so doing.

Notice to respondent.

15. If the Commissioner does not dismiss the application under regulation 13 or regulation 14 he shall send to the party from whom the applicant claims relief (hereinafter referred to as the respondent) a copy of the application. The Commissioner shall notify the parties of the date on which he will dispose of the application, and may call upon the parties to produce upon that date any evidence which they may wish to tender.

[*Gazette*
No. 11023 of 14th
December 1956.]

Appearance and examination of respondent.

16. (1) The respondent may, and if so required by the Commissioner shall at or before the first hearing or within such time as the Commissioner may permit., file a written statement dealing with the claim raised in the application, and any such written statement shall form part the record.

(2) If the respondent contests the claim, the Commissioner may, and, if no written statement has been filed, shall proceed to examine him upon the claim, and shall reduce the result of the examination to writing.

Framing of issues.

17. (1) After considering any written statement and the result of any examination of the parties the Commissioner shall ascertain upon what material propositions of fact or of law the parties are at variance, and shall thereupon proceed to frame and record the issues upon which the right decision of the case appears to him to depend.

(2) In recording the issues, the Commissioner shall distinguish between those which in his opinion concern points of fact and those which concern points of law.

Power to postpone trial of issues of fact where issues of law arise.

18. When issues both of law and of fact arise in the same case and the Commissioner is of opinion that the case may be disposed of on the issues of law only, he may try those issues first, and for that purpose may, if he thinks fit, postpone the settlement of the issues of fact until after the issues of law have been determined.

Journal.
[*Gazette* No. 11, 152 of
2nd August 1957.]

19. The Commissioner shall maintain a brief journal of the proceedings on an application.

Reasons for postponement to be recorded.

20. If the Commissioner finds it impossible to dispose of an application of one hearing he shall record the reasons which necessitate a postponement.

Judgment.

21. (1) The Commissioner, in passing orders shall record concisely in a judgment his finding on each of the issues framed and his reasons for such finding.

(2) The Commissioner, at the time of signing and dating his judgment, shall pronounce his decision, and thereafter no addition or alteration shall be made to the judgment other than the correction of a clerical or arithmetical mistake arising from any accidental slip or omission.

Summoning of witnesses. [Gazette (E.O) No. 754/3 of 15th February 1993.]

22. If an application together with the prescribed fee is presented by any party to the proceedings for the citation of witnesses, the Commissioner shall issue summonses for the appearance of such witnesses unless he considers that their appearance is not necessary for the just decision of the case:

Provided that the Commissioner may refuse to issue summons if the party applying for summons fails to deposit, before the issue thereof an amount sufficient to cover the payment of a fee or for Rs. 250 for every expert witness for everyday that he is summoned to give evidence, and the payment of batta and travelling expenses to witness for his attendance according to the scale of batta and expenses payable to witnesses summoned by the State in District Court criminal cases.

Exemption from payment of costs.

23. If the Commissioner is satisfied that the applicant is unable, by reason of poverty, to pay the prescribed fees, he may remit any or all of such fees. If the case is decided in favour of the applicant, the fees which, had they not been remitted, would have been due from him may be added to the costs of the case and recovered in such manner as the Commissioner in his order regarding costs may direct.

Right of entry for local inspection.

24. A Commissioner before whom any proceeding relating to an injury by accident is pending may at any time enter the place where the workman was injured, or where the workman ordinarily performed his work, for the purpose of making a local inspection or of examining any persons likely to be able to give information relevant to the proceedings :

Provided that the Commissioner shall not enter any premises of any industrial establishment except during the ordinary working hours of that establishment, save with the permission of the employer or of some person directly responsible to him for the management of the establishment.

Procedure in connection with local inspection.

25. (1) If the Commissioner proposes to conduct a local inspection with a view to examining on the spot the circumstances in which an accident took place, he shall give the parties or their representatives notice of his intention to conduct such inspection, unless in his opinion the urgency of the case renders the giving of such notice impracticable.

(2) Such notice may be given orally or in writing to the parties or their representatives and, in the case of an employer, may be given in the manner prescribed by section 17.

(3) The parties concerned, or their representative may be present at any local inspection held by the Commissioner.

[Gazette (E.O) No. 754/3 of 15th February 1993.]

(4) The Commissioner, after making a local inspection, shall note briefly in a memorandum any facts observed, and shall show the memorandum to any of the parties concerned who may desire to see the same, and, on payment of a fee Rs.10 shall supply such party with a copy thereof.

(5) The memorandum shall form part of the record.

Power of summary examination.

26. (1) The Commissioner during a local inspection or at any other time, save at a formal hearing of a case pending before him, may, examine summarily any person likely to be able to give information relative to such case, whether such person has been or is to be called as a witness in the case or not, and whether any or all of the parties are present or not.

(2) No oath shall be administered to a person examined under paragraph (1).

(3) A statement made by any person examined under paragraph (1), if reduced to writing, need not be signed by that person nor shall any such statement, except as hereinafter provided, be incorporated in the record or utilized by the Commissioner for the purpose of arriving at a decision in the case.

(4) If a witness who has been examined under paragraph (1) makes in evidence any material statement contradicting any statement made by him in such examination and reduced to writing, the Commissioner may call his attention to such statement, and shall in that case direct that the parties be furnished with the relevant part of such statement for the purpose of examining or cross-examining the witness.

(5) Any statement or part of a statement which is furnished to the parties under paragraph (4) shall be incorporated in the record.

(6) Where a case is settled by agreement between the parties, the Commissioner may incorporate in the record any statement made under paragraph (1), and may utilize such statement for the purposes of justifying his acceptance, of, or refusal to accept, the agreement reached.

Agreement to
abide by
Commissioner's
decision.

27. (1) If a party states in writing his willingness to abide by the decision of the Commissioner, the Commissioner shall inquire whether the other party is willing to abide by his decision.

(2) If the other party agrees to abide by the Commissioner's decision, the fact of his agreement shall be recorded in writing and signed by him.

(3) If the other party does not agree to abide by the Commissioner's decision, the first party shall not remain under an obligation so to abide.

Procedure
where
indemnity
claimed under
section 22 (2).

28. (1) Where the respondent claims that if compensation is recovered against him he will be entitled under subsection (2) of section 22 to be indemnified by some other person not a party to the case, he shall, when first called upon to answer the application present a notice of such claim to the Commissioner with the prescribed fee and the Commissioner shall thereupon cause a notice substantially in Form C, to be served on that other person.

(2) If any person served with a notice under paragraph (1) desires to contest the applicant's claim for compensation or the respondent's claim to be indemnified, he shall appear before the Commissioner on the date fixed for the hearing of the case in the notice in Form C or on any date to which the case may be adjourned and, if he so appears, shall have all the rights of a party to the proceedings ; in default of so appearing he shall be deemed to admit the validity of any award made against the respondent for any compensation recovered from him :

Provided that, if any person so served appears subsequently and satisfies the Commissioner that he was prevented by any sufficient cause from appearing the Commissioner shall, after giving notice to the aforesaid respondent hear such person, and may set aside or vary any award made against such person under this regulation upon such terms as may be just.

(3) If any person served with a notice under paragraph (1) whether or not he desires to contest the applicant's claim for compensation or the respondent's claim to be indemnified, claims that being a contractor he is himself a principal and is entitled to be indemnified by any other person standing to him in the relation of a contractor from whom the workman could have recovered compensation, he shall on or before the date fixed in the notice under paragraph (1) present a notice of such claim to the Commissioner together with the prescribed fee and the Commissioner shall thereupon cause a notice, substantially in Form D, to be served upon that other person.

(4) If any person served with a notice under paragraph (3) desires to contest the applicant's claim for compensation, or the claim under paragraph (3) to be indemnified he shall appear

before the Commissioner on the date fixed in the notice in Form D or on any date to which the case may be adjourned and, if he so appears, shall have all the rights of a party of the proceedings ; in default of so appearing he shall be deemed to admit the validity of any award made against the respondent or the person served with a notice under paragraph (1) and to admit his own liability to indemnify the party against whom such award is made for any compensation recovered from him: Provided that, if any person so served appears subsequently and satisfies the Commissioner that he was prevented by any sufficient cause from appearing, the Commissioner shall, after giving notice to all parties on the record, hear such person, and may set aside or vary any award made against such person under this regulation upon such terms as may be just.

(5) In any proceeding in which a notice has been served on any person under paragraph (1) or paragraph (3) the Commissioner shall, if he awards compensation, record in his judgment a finding in respect of each of such persons whether he is or is not liable to indemnify and of the parties, and shall specify the party, if any, whom he is liable to indemnify.

Procedure in connected cases.

29. (1) Where two or more cases pending before the Commissioner arise out of the same accident, and any issue involved is common to two or more such cases, such cases may, so far as the evidence bearing on such issue is concerned, be heard simultaneously.

(2) Where action is taken under paragraph (1), the evidence bearing on the common issue or issues shall be recorded on the record of one case, and the Commissioner shall certify under his hand on the record of any such other case the extent to which the evidence so recorded applies to such other case, and the fact that the parties to such other case had the opportunity of being present, and, if they were present of cross-examining the witnesses.

Certain provisions of the Civil Procedure Code to apply.

30. Save as otherwise expressly provided in the Ordinance or these regulations, the following provisions of the Civil Procedure Code, namely, those contained in Chapters VII, VIII, IX, XII, XVI, XVIII, and XXVI thereof shall apply to proceedings before the Commissioner, in so far as they may be applicable thereto :

Provided that:-

- (a) for the purpose of facilitating the application of the said provisions, the Commissioner may construe them with such alterations not affecting the substance as may be necessary or proper to adapt them to the matter before him ;
- (b) the Commissioner may, for sufficient reason, proceed otherwise than in accordance with the said provisions if he is satisfied that the interests of the parties will not thereby be prejudiced.

Provision regarding signature on forms.

31. Any form which is by these regulations required to be signed by the Commissioner may be signed under his direction and on his behalf by any officer subordinate to him appointed by him in writing for this purpose.

Apportionment of compensation among dependants.

32. The provisions of this Part, except those contained in regulations 15, 16 and 28 shall as far as may be, apply in the case of any proceedings relating to the apportionment of compensation among dependants of a deceased workman.

Procedure on application for commutation.

33. (1) Where application is made to the Commissioner under section 9 for the redemption of a right to receive half-monthly payments by the payment of a lump sum, the application shall be substantially in Form E and shall be accompanied by the prescribed fee. The Commissioner shall form an estimate of the probable duration of the disablement, and shall award a sum equivalent to the total of the half-monthly payments which would be payable for the period during which he estimates that the disablement will continue less one-half per cent of that total for each month comprised in that period :

Provided that fractions of a rupee included in the sum so computed shall be disregarded.

(2) When, in any case to which paragraph (1) applies, the Commissioner is unable to form an approximate estimate of the probable duration of the disablement, he may from time to time postpone a decision on the application for a period not exceeding two months at any one time.

PART IV
Transfer

Transfer for report.

34. (1) Where any officer performing the duties of the Commissioner under these regulations has to transfer any matter to any other such officer for report in accordance with subsection (1) of section 33, he shall along with the documents referred to in that subsection, transmit to such other officer a concise statement, in the form of questions for answer, of the matter on which report is required.

(2) The officer to whom a case is so transferred for report shall not be required to report on any question of law.

PART V

Manner in which money in the hands of the Commissioner may be invested.
[Gazette (E.O) 754/3 of 15th February 1993.]

35. Money in the hands of the Commissioner may be deposited for the benefit of the dependents of a deceased workman in the National Savings Bank.

PART VI

Appointment of Representatives

Form of memorandum.

38. Memoranda of agreement sent to the Commissioner under section 42 shall unless the Commissioner otherwise directs, be in duplicate, and shall be in as close conformity as the circumstances of the case admit with Form F or Form G or Form H as the case may be.

Procedure where Commissioner does not consider that he should refuse to record memorandum.

39. (1) On receiving a memorandum of agreement with the prescribed fee, the Commissioner shall, unless he considers that there are grounds for refusing to record the memorandum, fix a date for recording the same, and shall cause a notice substantially in Form I to be served on the parties concerned calling upon them to show cause if any in writing why the memorandum should not be so recorded:

[Gazette (E.O) 11023 of 14th December 1956.]

Provided that the notice may be communicated orally to any parties who are present at the time when notice in writing would otherwise issue.

[Gazette (E.O) 11023 of 14th February 1956.]

(2) On the date so fixed, the Commissioner shall record the memorandum unless, after considering the objections made against the memorandum being recorded, he considers that it ought not be recorded :

[Gazette (E.O) 11023 of 14th February 1956.]

Provided that the issue of a notice under paragraph (1) shall not be deemed to prevent the Commissioner from refusing to record the memorandum on the date so fixed even if no objection be made by any party concerned.

[Gazette No. 11023 of 14th February 1956.]

(3) If on such date the Commissioner decides that the memorandum ought not to be recorded, he shall inform the parties of his decision and of the reasons therefor.

Procedure where Commissioner considers he should refuse to record memorandum.

40. (1) If the Commissioner considers that there are grounds for refusing to record the memorandum of agreement he shall fix a date for hearing the party or parties desiring the memorandum to be recorded, and shall inform such party or parties and, if he thinks fit, any other party concerned, of the date so fixed and of the grounds on which he considers that the memorandum should not be recorded.

(2) If the parties to be informed are not present the Commissioner shall cause to be served on them a notice substantially in Form K or Form L as the case may be, and the date of hearing specified in such notice shall be not less than seven days after the date of issue of the notice.

(3) If, on the date fixed under paragraph (1), the party or parties desiring the memorandum to be recorded show adequate cause for proceeding to record the same, the Commissioner may, if information has already been given to all the parties concerned, record the memorandum.

(4) If, on the date so fixed, the Commissioner refuses to record the memorandum, he shall send a notice substantially in Form J to any party who did not receive information under paragraph (1).

Procedure on refusal to record memorandum.

41. (1) If in any case the Commissioner refuses to record a memorandum of agreement, he shall briefly record his reasons for such refusal.

(2) If the Commissioner refuses to record a memorandum of agreement, he shall not pass any order directing the payment of any sum or amount over and above the sum specified in the agreement, unless opportunity has been given to the party liable to pay such sum to show cause why it should not be paid.

(3) Where the agreement is for the redemption of half-monthly payments by the payment of a lump sum, and the Commissioner considers that the memorandum of agreement should not be recorded by reason of the inadequacy of the amount of such as fixed in the agreement, he shall record his estimate of the probable duration of the disablement of the workman.

Registration of memorandum accepted for record.

42. Particulars of every memorandum of agreement which the Commissioner decides to record shall be entered by him in a register substantially in Form M : and on a copy of the memorandum which shall be retained by him there shall be made under his signature an endorsement in the following terms. namely :-

“This memorandum of agreement dated _____, 19____, has been recorded in the register this _____ day of _____, 19____, under serial No. _____.

Commissioner”

PART VIII

Procedure on application for review.

43. If, on examining an application for review by an employer in which the reduction or discontinuance of half-monthly payments sought, it appears to the Commissioner that there is reasonable ground for believing that the employer has a right to such reduction or discontinuance, he may at any time issue an order withholding the half-monthly payments in whole or in part pending his decision on the application.

PART IX

Reasons for disallowing costs to be stated. Items including under costs.

44. Where the Commissioner directs that any costs shall not follow the event, he shall state his reasons in writing.

45. The costs which may be awarded shall include:-

- (a) the charges necessarily incurred in the payment of the prescribed fees in connection with the application,
- (b) the charge necessarily incurred on batta or subsistence allowances to witnesses, and
- (c) legal practitioner's fees on the scale prescribed in the regulation next following.

Legal
practitioner's
fees.
[Gazette (E.O)
754/3 of 15th
February 1993.]

46. In any proceeding involving an application for compensation in the form of a lumpsum or an application for indemnification, the legal practitioner's fee allowed shall be to Rs. 250 subject by special order of the Commissioner to demuniton to a sum not less than Rs.105 and to increase to a sum not more than Rs. 500 for each such proceeding. In all other applications the fee allowed shall be Rs. 105 subject to increase by special order to a sum not exceeding Rs. 250.

47. When a party engages more legal practitioners than one to conduct or defend a case he shall be allowed one set of costs only.

48. When several respondents having substantially one defense to make employ several legal practitioners they shall be allowed one set of costs only. In such cases it will be for the applicant, at the time of hearing, to ask for a direction of the Commissioner that separate costs be not allowed.

49. When two or more respondents having separate substantial defenses have engaged the services of one legal practitioner they shall be allowed separate sets of costs. In this case it will be for the respondents interested to apply at the hearing for separate costs.

50. When several respondents having separate defenses are represented by separate legal practitioners they shall be entitled to separate costs.

PART X
Fees

Fees payable
in respect of
proceedings
under the
Ordinance.

51. The following fees shall be payable in respect of proceedings under the Ordinance, by means of one or more uncanceled stamps of the appropriate value affixed to each application

[Gazette (E.O)
754/3 of 15th
February 1993.]

I - Applications for compensation :-

(a) Where compensation is claimed in the form of sequence payments Rs. 10

(b) Where compensation is claimed in the form of a lump sum

not exceeding Rs. 5000/= Rs. 5

„ „ Rs.10,000/= Rs. 10

„ „ Rs. 15,000/= Rs. 15

„ „ Rs. 25,000/= Rs. 25

Rs. 1 for Rs. 1000 or fraction thereof.

[Gazette (E.O)
754/3 of 15th
February 1993.]

II - Applications for compensation :-

(a) By agreement between the parties Rs. 10

(b) In all other cases Rs. 10

III - Applications for the deposit of compensation :-

(a) Under section 11 (1) of the Ordinance Nil

(b) Under section 11 (2) of the Ordinance
(in respect of each person to whom Rs. 5
compensation is payable)

IV Applications for review:-

(a) Where the review claimed is the
continuanace increase, decrease or
ending of half-monthly payments Rs. 5

(b) Where the half-monthly payments are sought to be converted into a lump sum	Rs. 20
(c) In all other cases ..	Rs. 10

V - Applications for the registration of agreements:-

(a) Where the application or the memorandum of agreement is signed by both parties	Nil
(b) In all other cases ..	Rs. 10

VI - Applications to summon witness:-

(a) For the first witness mentioned in the application	Rs. 5
(b) For every subsequent witness ..	Rs. 2.50

VII - Applications for indemnification .. Rs. 30

VIII - All applications not otherwise provided for Rs. 10

[Gazette (E.O) 754/3 of 15th February 1993.]

When an applicant fails to pay the appropriate amount of fee prescribed under regulation 51 such amount of fee shall be recovered from the compensation payable to such applicant.

Cases where Commissioner may allow application without fee.

52. In the case of any application falling under head X of regulation 51 the Commissioner may, if he thinks fit, permit the application to be made without any fee.

Where an increased fee has to be paid.

53. If in any case the Commissioner considers that he ought to pass orders granting relief of a different kind or to a different extent from that claimed by the applicant and if the fee which would have been payable by the applicant on an application for the relief which the Commissioner considers to be due is greater than the fee which has actually been paid, the Commissioner may require the applicant to deposit fees to the extent of the difference.

PART XI
Notice Book

54. (1) The following classes of employers shall maintain notice books as required by section 18 (1) of the Ordinance :-

- (a) The owners or the persons, by whatever name called, in actual charge and control of mines and of factories, as defined in the Mines and Machinery Ordinance, 1896.
- (b) Persons who habitually or at any one time employ 25 or more workmen, irrespective of the nature of their employment.

(2) The notice book shall be substantially in Form N.

Form statement required under section 20.

PART XII

55. The statement required by section 20 shall be substantially in Form O.

PART XIII

License

License. [Gazette (E.O) 754/3 of 15th February 1993.]

56. (1) Every application for a license under section 45 (1) to undertake insurance for the purposes of the Ordinance shall be substantially in Form P.

(2) The annual licence fee shall be ten thousand rupees and every licence issued under section 45 (1) shall be -

- (a) valid for one year;
(b) renewed after expiration of the period specified in the licence

(3) In the event of any application for a license being rejected by the Commissioner, the fee paid by the applicant shall be refunded to him.

PART XIV

Miscellaneous

Return under section 57 (2).

57. The report required by section 57 (1) shall be substantially in Form Q-

58. (1) The return required by section 57 (2) shall relate to a calendar year, shall be substantially in Form R and shall be furnished on or before the 1st February of the year next following the year to which the return relates.

(2) The return shall be signed (a) by the employer or where there is more than one employer by any employer, or (b) by any person directly responsible to the employer or employers for the management of the establishment to which it relates.

59. Wherever necessary, a Sinhalese or a Tamil translation, provided or approved by the Commissioner, may be used in place of any form prescribed by these regulations.

FORM A

(Prescribed by regulation 11)

APPLICATION FOR COMPENSATION BY WORKMEN

To: The Commissioner for Workmen's Compensation.

Applicant's Name:
Address :

versus

Respondent's Name:
Address :

It is hereby submitted that:-

(1) the applicant, a workman employed by (a contractor with the respondent on the day of 19 received personal injury by accident arising out of and in the course of his employment.



WORKMEN'S COMPENSATION

the cause of the injury was (here insert briefly in ordinary language the cause of the injury) _____

(2) the applicant sustained the following injuries, namely :-

(3) the monthly wages of the applicant amount to Rs. _____
*(4) (a) Notice of the accident was served on the _____ day of _____.

(b) Notice of the accident was not served (in due time by reason of _____).
(5) the applicant is accordingly entitled to receive:-
(a) half-monthly payments of Rs. _____ from the _____ day of _____, 19____, to _____.
(b) a lump sum payment of Rs. _____.

(6) the applicant has taken the following steps to secure a settlement by agreement, namely, _____ but it has proved impossible to settle the questions in dispute because _____.

*You are therefore requested to determine the following questions in dispute, namely :-

- (a) whether the applicant is a workman within the meaning of the Ordinance ;
- (b) whether the accident arose out of or in the course of the applicant's employment ;
- (c) whether the amount of compensation claimed or any smaller amount is due ;
- (d) whether the respondent is liable to pay such compensation as may be due ;
- (e) &c., (as required)

I certify that the facts which I have stated above are to the best of my knowledge and belief, true and correct.

Date the _____

Signature or mark of Applicant.

*Strike out the clauses which are not applicable.

FORM B

(Prescribed by regulation 11)

APPLICATION FOR ORDER TO DEPOSIT COMPENSATION DEPENDANTS

To: The Commissioner for Workmen's Compensation.

Applicant's Name: _____.

Address : _____.

versus

Respondent's Name: _____.

Address : _____.

Stamp not to be cancelled.

It is here by submitted that-

(1) _____ a workman employed by (a contractor with) the respondent on the hereby submitted that-

[Gazette (E.O) No. 754/3 of 15th February 1993.]

[Gazette (E.O) 754/3 of 15th February 1993.]

WORKMEN'S COMPENSATION

_____ day of _____, 19____, received personal injury by accident arising out of and in the course of his employment resulting in his death on the _____ day of _____, 19____. The cause of the injury was (here insert briefly in ordinary language the cause of the injury)_____.

is a

(2) The applicant (s) _____ dependant (s) of the deceased workman are

being his _____.

(3) The monthly wages of the deceased amount to Rs._____.

* (4) (a) Notice of the accident was served on the _____ day of_____.

(b) Notice was served as soon as practicable.

(c) Notice of the accident was not served (in due time) by reason of _____.

(5) The deceased before his death received as compensation the total sum of Rs._____. is

(6) The applicant (s) _____ accordingly entitled to receive a lump sum payment of Rs._____.

[Gazette (E.O) No. 754/3 of 15th February 1993.]

*Strike out the clauses which are not applicable.

You are therefore requested to award to the applicant the said compensation or any other compensation to which he may be entitled.

I certify that the facts which I have stated above are to the best of my knowledge and belief true and correct.

Date the _____

Signature or mark of Applicant.

FORM C

(Prescribed by regulation 28)

NOTICE

Whereas a claim for compensation has been made by _____ applicant, against _____ and the said _____ has claimed that you are liable under section 22 (2) of the Workmen's Compensation Ordinance to indemnify him against any compensation which he may be liable to pay in respect of the aforesaid claim, you are hereby informed that you may appear before me on _____ and contest the claim for compensation made by the said applicant or the claim for indemnity made by the respondent. In default of your appearance you will be deemed to admit the validity of any award made against the respondent and your liability to indemnify the respondent for any compensation recovered from him.

Date the _____, 19_____.

Commissioner for Workmen's Compensation.

FORM D

(Prescribed by regulation 28)

NOTICE

Whereas a claim for compensation has been made by _____ applicant, against _____ and the said _____ has claimed that _____ is liable under section 22 (2) of the Workmen's Compensation Ordinance to indemnify him against any compensation which he may be liable to pay in respect of the aforesaid claim, and whereas the said _____ on notice served has claimed that you _____ stand to him in the relation of a contractor from whom the applicant _____ could have recovered compensation, you are hereby informed that you may appear before me on _____ and contest the claim for compensation made by the said applicant or the claim for indemnity made by the respondent _____. In default of your appearance you will be deemed to admit the validity of any award made against the respondent _____ and your liability to indemnify the respondent _____ for any compensation recovered from him.

Date the _____, 19_____.

Commissioner for Workmen's Compensation.

FORM E

(Prescribed by regulation 33)

APPLICATION FOR COMMUTATION
(Under section 9 of the Workmen's
Compensation Ordinance)

To: The Commissioner for Workmen's Compensation.

Applicant's Name: _____.

Address : _____.

versus

Respondent's Name: _____.

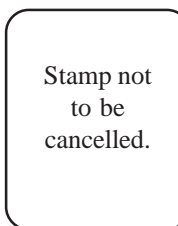
Address : _____.

It is hereby submitted that:-

- (1) The ^{applicant} _____ has been in receipt of half-monthly payment
respondent _____

from _____ to _____ in respect of temporary disablement by accident arising out of and in the course of his employment.

- (2) The applicant is desirous that the right to receive half-monthly payments should be redeemed.
- (3) (a) The respondent is unwilling to agree regarding the redemption of the right to receive half-monthly payments.



(b) The parties have been unable to agree regarding the sum to which the right to receive half-monthly payments should be redeemed.

You are therefore requested to pass orders:-

(a) directing that the right to receive half-monthly payments should be redeemed.

(b) fixing a sum for the redemption of the right to receive half-monthly payments.

Date the _____, 19_____.

Signature or Mark of Applicant

FORM F
(Prescribed by regulation 38)

MEMORANDUM OF AGREEMENT

Stamp not
to be
cancelled.

It is hereby submitted that on the _____ day of _____, 19_____, personal injury was caused to _____ residing at _____ by accident arising out of and in the course of employment in _____. The said injury has resulted in temporary disablement to the said workman whereby it is estimated that he will be prevented from earning more than _____ of his previous _____ any _____ wages for a period of months.

The said workman has been in receipt of half-monthly payments, which have continued from the _____ day of _____, 19_____, until the _____ day of _____, 19_____, amounting to Rs. _____ in all. The said workman's monthly wages are estimated at Rs. _____

The workman _____ is over the age of 15 years.
_____ will reach the age of 15 years on _____.

It is further submitted that _____ the employer of the said workman, has agreed to pay, and the said workman has agreed to accept the sum of Rs. _____ in full settlement of all and every claim under the Workmen's Compensation Ordinance in respect of all disablement of a temporary nature arising out of the said accident whether now or hereafter to become manifest. It is therefore requested that this memorandum be duly recorded.

Dated _____.

Signature of Employer : _____.

Witness : _____.

Signature or Mark of Workman : _____.

Signature of Witness : _____.

(Note:- An application to register an agreement can be presented under the signature of one party, provided that the other party has agreed to the terms. Both signatures should be appended, whenever possible.)

WORKMEN'S COMPENSATION

Receipt (to be filled in when the money has actually been paid)

In accordance with the above agreement, I have this day receive the sum of Rs. _____

Stamp not
to be
cancelled.

Signature or mark of Workman.

Dated the _____, 19____.

The money has been paid and this receipt signed in my presence.

Signature of Witness.

Note:- This form may be varied to suit special cases, *e.g.*, injury by occupational disease, agreement, when workman is under legal disability, &c.

FORM G
(Prescribed by regulation 38)
MEMORANDUM OF AGREEMENT

Stamp not
to be
cancelled.

It is hereby submitted that on the _____ day of _____, 19____, personal injury was caused to _____ residing at _____ by accident arising out of and in the course of employment in _____. The said injury has resulted in permanent disablement to the said workman of the following nature, namely : _____. The said workman's monthly wages are estimated at Rs. _____

The said workman has, prio to the date of this agreement, received the following payments,, namely:-

Rs. _____ on _____, Rs _____ on _____.
Rs. _____ on _____, Rs _____ on _____.
Rs. _____ on _____, Rs _____ on _____.

It is further submitted that _____, the employer of the said workman has agreed to pay, and the said workman has agreed to accept the sum of Rs. _____ in full settlement of all and every claim under the Workmen's Compensation Ordinance, in respect of the disablement stated above and all disablement now manifest. It is therefore requested that this memorandum be duly recorded.

Dated : _____
Signature of Employer : _____
Witness : _____
Signature or Mark of Workman : _____.

Signature of Witness : _____.

(Note:- An application to register an agreement can be presented under the signature of one party, provided that the other party has agreed to the terms. But both signatures should be appended, whenever possible.)

Receipt (to be filled in when the money has actually been paid). In accordance with the above agreement, I have this day received the sum of Rs. _____.

Stamp not
to be
cancelled.

Signature or mark of Workman.

Dated the _____, 19_____.

The money has been paid and this receipt signed in my presence.

Signature of Witness.

Note:- This form may be varied to suit special cases, e.g., injury by occupational disease, agreement, when workman is under legal disability, &c.

FORM H
(Prescribed by regulation 38)

Stamp not
to be
cancelled.

MEMORANDUM OF AGREEMENT

It is hereby submitted that on the _____ day of _____, 19_____, personal injury was caused to _____ residing at _____ by accident arising out of and in the course of employment in _____. The said injury has resulted in employment disablement to the said workman, who is at present in receipt of wages amounting to Rs. _____ per month.
no wages

The said workman's monthly wages prior to the accident are estimated at Rs. _____
The workman is subject to a legal disability by reason of _____.

It is further submitted that _____, the employer of the workman has agreed to pay and _____ on behalf of the said workman has agreed to accept half-monthly payments at the rate of Rs. _____ for the period of the said temporary disablement. This agreement is subject to the condition that the amount of the half-monthly payments may be varied in accordance with the provisions of the Workmen's Compensation Ordinance on account of an alteration in the earnings of the said workman during disablement. It is further stipulated that all rights of commutation under section 9 of the Ordinance are unaffected by this agreement. It is therefore requested that this memorandum be duly recorded.

Dated : _____

Signature of Employer : _____.

Witness : _____.

Signature or Mark of Workman : _____.

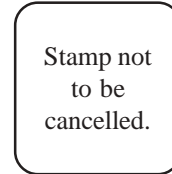
Signature of Witness : _____.

WORKMEN'S COMPENSATION

(Note:- An application to register an agreement can be presented under the signature of one party, provided that the other party has agreed to the terms. But both signatures should be appended, whenever possible.)

Receipt (to be filled in when the money has actually been paid).

In accordance with the above agreement, I have this day received the sum of Rs._____.



Signature or mark of Workman.

Dated the_____, 19_____.

The money has been paid and this receipt signed in my presence.

_____,
Signature of Witness.

Note:- This form may be varied to suit special cases, e.g., injury by occupational disease, agreement, when workman is under legal disability, &c.

FORM I

(Prescribed by regulation 39 (1))

Whereas an agreement to pay compensation is said to have been reached between _____ and _____ and whereas _____ ^{have}has_____ applied for registration of the agreement under section 42 of the Workmen's Compensation Ordinance, notice is hereby given that the said agreement will be taken into consideration on _____ 19_____, and that any objection to the registration of the said agreement should be made to me in writing and should reach me on ro before that date.

In the absence of valid objections, it is my intention to proceed to the registration of the agreement.

Date the _____, 19_____. _____
Commissioner for Workmen's Compensation.

FORM J

(Prescribed by regulation 38 (3))

Take notice that registration of the agreement to pay compensation said to have been reached between you _____ and _____ on the _____, 19_____, has been refused for the following reasons, namely:-

Date: _____, 19_____. _____
Commissioner for Workmen's Compensation.

WORKMEN'S COMPENSATION

FORM K

(Prescribed by regulation 40 (2))

Whereas an agreement to pay compensation is said to have been reached between _____ and _____ and whereas _____ ^{has} _{have} _____ applied for registration of the agreement under section 42 of the Workmen's Compensation Ordinance, and whereas it appears to me that the said agreement ought not to be registered for the following reasons, namely:-

an opportunity will be afforded to you of showing cause on _____ 19____, why the said agreement should be registered. If no adequate cause is shown on that date, registration of the agreement will be refused.

Date: _____, 19____.

Commissioner for Workmen's Compensation.

FORM L

(Prescribed by regulation 40 (2))

Whereas an agreement to pay compensation is said to have been reached between _____ and _____ and whereas _____ ^{has} _{have} _____ applied for registration of the agreement under section 42 the Workmen's Compensation Ordinance, and whereas it appears to me that the said agreement ought not to be registered for the following reasons, namely : _____ an opportunity will be afforded to the said _____ of showing cause on _____, 19____, why the said agreement should be registered. Any representation which you have to make with regard to the said agreement should be made on that date. If adequate cause is then shown, the agreement may be registered.

Date: _____, 19____.

Commissioner for Workmen's Compensation.

Form M

(Prescribed by regulation 42)

REGISTER OF AGREEMENTS FOR THE YEAR 19____,

Serial Number	Date of Agreement.	Date of Registration	Name of Employer	Name of Workman	Reference to orders rectifying the register

FORM N

NOTICE CLAIMING COMPENSATION FOR INJURIES RECEIVED
IN THE COURSE OF EMPLOYMENT

(Required by sections 16, 17, 18, of the Workmen's Compensation Ordinance,
and prescribed by Regulation 54)

A. Name of employer (*Government Department, Local Authority, Factory, Industrial Work-
shop, Estate or other Instillation, Registered Ship and its Local Agent or Proprietor,
&c.*):_____.

B. Full name of injured employee :_____.

C. Private address of injured employee :_____.

D. Sex:_____

E. Age :_____.

F. Registerd No._____ (if any)

G. Monthly wages at date of accident :_____.

H. Date when accident occurred :_____.

If the accident resulted in death, name and address of the injured employee's dependants (if any) :-

L. Name :_____.

Address :_____.

J. Full particulars (nature and cause of accordant) :_____.

Date :_____.

Signature or mark of injured employee.

If notice is given by someone other than the injured employee particulars of the person interested who gives information should be given below:-

K. Name of person interested :_____.

L. Relationship to injured employee :_____.

M. Private address :_____.

Date :_____.

Signature of person interested.

N.B:- The notice should be as nearly as may be material in the form set out above.

N.B:- This statement should be furnished to the Commissioner within 30 days of the receipt of the notice from him

FORM O

(Prescribed by Section 20 of the Ordinance and by Regulation 55)

REPORT OF A FATAL ACCIDENT

To: The Commissioner for Workmen's Compensation.

Sir,

[Gazette (E.O)
754/3 of 15th
February 1993.]

In reply to your notice, dated _____, which was received by me on the _____ I have the honor to report that _____ residing at _____ employed in _____ met with an accident on the _____, 19____ as a result of which he died on the____19____.The wages* earned per month by the deceased amount to Rs._____.

2. The circumstances in which the deceased met his death were as follows :-

†3. I admit liability to pay as compensation, on account of the deceased's death, the amount of Rs._____, which was/will be deposited with you on/before the_____, 19____.

*4. I disclaim liability to pay compensation on account of the deceased's death on the following grounds :_____

5. The names and addressee of the dependants of the deceased so far as known to me are :-

Date : _____, 19____.

_____,
Signature of Employer

Name and address of the employer

*"Wages" includes the monetary value of any privilege or benefit which is capable of being estimated in money &c., as defined in the Ordinance.

†Delete unnecessary paragraphs.

FORM P

(Prescribed by regulation 56 (1.)

To: The Commissioner for Workmen's Compensation.

Sir,

I have the honor to apply under section 45 (1) of the Workmen's Compensation Ordinance. for a license to undertake insurance against liabilities to workmen which may be incurred by the employers under the Ordinance.

2. I deposit here with a sum of Rs. 10,000/= being the fee prescribed by regulation 56.

3. I make this application on behalf : _____

of _____ (name of Insurance Company) whose Head Office is at _____ and whose Local Office is at _____.

[Gazette (E.O)
754/3 of 15th
February 1993.]

WORKMEN'S COMPENSATION

4. I am the Local Manager/Secretary/Agent, of the said _____ Insurance Company.
5. I forward herewith for your information copies of-
 - (1) the Company's last Annual General Report.
 - (2) audited statement of assets and liabilities of the Company for the last financial year.
6. I shall be glad to give any further information you may require to prove to your satisfaction that the said company is financially able to undertake the insurance.

I am, Sir,
Your obedient Servant,

Date : _____, 19____.

(Signature of applicant.)

N.B:- This report should be furnished to the Commissioner within a period of 14 days reckoned from the date on which the accident occurred.

[Amended by
Gazette (E.O)
754/3 of 15th
February 1993.]

Form Q
(Prescribed by Section 51 (1) of the Ordinance and by
Regulation 57)

To: The Commissioner for Workmen's Compensation.

Sir,

I have the honor to report that the workman /*workmen whose name /*names appears/appear in the statement of particulars set out hereunder has /*have been injured as a result of an accident occurring on my business premises.

died within _____*

The workman /workmen _____

absented himself/*themselves from

work for a period of

3 consecutive days next succeeding that on which the accident occurred.

*Delete unnecessary words.

STATEMENT OF PARTICULARS

(a) Name	Sex	Age	Nature of usual Employment	Full Postal Address	•Wages per Month Time of Accident

(b) Date of accident : _____, 19____.

(c) Place where the accident occurred : _____.

WORKMEN'S COMPENSATION

(d) Manner in which _____ workmen was employed at the _____ workmen were time : _____.

(e) Cause of accident : _____.

[Gazette No. 11023 of 14th December 1956.]

(f) _____ Nature of Injuries

relationship to the workman/workmen if known.

[Gazette (E.O) 754/3 of 15th February 1993.]

†(g) If the _____ workman is _____ dead

_____ workmen are the names of dependent and their relationship to the workman if known

(h) Any other relevant particulars.

I am, Sir,
Your obedient Servant,

Date : _____, 19____.

Signature of Employer

Name and Address of the employer:-

FORM R

(Prescribed by Section 57 (2) of the Ordinance and by Regulation 58)

WORKMEN'S COMPENSATION

Return relating to period from _____ to 31st December, 19____.

District : _____.

Town or Village : _____.

Post Office : _____.



(To be omitted in case of Government Departments)

*"Wages" includes the monetary value of any privilege or benefit which is capable of being estimated in menace, &c., as defined in the Ordinance.

† Any other relevant particulars may be inserted in the space marked (g).

Name of establishment ¹ : _____.

Nature of work ² : _____.

Average numbers employer per day ³



Adults : _____.

Minors : _____.

WORKMEN'S COMPENSATION

	Accidents						Occupational Diseases.					
	Cases of			Compensation Paid during the year 4 for			Cases of			Compensation paid during the year 4 for		
	Death	Permanent disablement	Temporary disablement	Death	Permanent disablement	Temporary disablement	Death	Permanent disablement	Temporary disablement	Death	Permanent disablement	Temporary disablement
				Rs.	Rs.	Rs.				Rs.	Rs.	Rs.
Adults ..												
Minors ..												

Signature of employer : _____
Designation : _____

Dated : _____, 19____.

- ¹ In cases where more establishments than one are owned by the same employer a separate return should be furnished for each establishment.
- ² Under “nature of work” enter in case of factories and mines the class of factory or mine according to the process or product, *e.g.*, cotton weaning and spinning factory, coal mine.
- ³ This should include all employees whether permanent or temporary who are eligible for compensation under the Ordinance. Numbers employed should be shown even if there are no accidents or payments to report.
- ⁴ Only compensation actually paid during the period in question should be entered ; it should include compensation paid on account of accidents occurring during a preceding period and should exclude compensation due which was not paid during the period.
- ⁵ Only such disablements as last for more than 7 days should be shown (section 6 (1) (D) of the Ordinance).
- ⁶ Viz., anthrax, lead poisoning, phosphorus poisoning , mercury poisoning, and arsenic poisoning only.

[Gazette (E.O)
754/3 of 15th
February 1993.]

FORM S

WORKMEN'S COMPENSATION ORDINANCE NO. 19 OF 1934, AS AMENDED BY ACTS
NO. 31 OF 1957 NO. 22 OF 1959, NO. 4 OF 1966 AND 15 OF 1990

Medical Examination Report

1. (a) Name of Workman : (c) Age :
 (b) Postal Address : (d) Sex :
 (e) Employment in which injured workman was engaged at the time of Accident :
 (f) Date of Accident :
 (g) History of Accident as stated by injured :

2. (a) Nature and extent of injured :
 (b) Is the incapacity to work solely due to the accident in question ?
 (c) Is the disablement temporary or permanent ?
 (d) If TEMPORARY what is the probable period of disablement ?
 (e) If PERMANENT, state the *percentage* of loss of earning capacity :
 (f) Is a review necessary ? If so, when ?

3. If the injured workman is suffering from an OCCUPATIONAL DISEASE mentioned in Schedule III state :
 (a) The description of occupational disease the workman is suffering from;
 (b) Is the disablement temporary or permanent ?
 (c) If TEMPORARY, state the probable/duration of disablement giving the date of commencement :
 (d) If PERMANENT, state the *percentage* of loss of earning capacity :
 (Please state *percentage* in words and figures)

4. Is the injured workman's present condition consistent with the injuries and accident ?

5. Date of examination :

6. Any other remarks:
 (X'Ray, light duty etc.,)

7. Specimen signature of injured :

Date.....

Signature/Left/Right Thumb impression

Signature of Registered Medical Practitioner and qualifications.

Name and Address :
.....
.....
.....

SECTIONS 55 AND 56

7. The regulation are embodied in the Schedule to the Ordinance.

SECTION 61

No. regulations

WORKMEN'S COMPENSATION

[Section 2 (1)]

SCHEDULE 1

List of injuries Deemed to Result in Permanent/Partial Disablement

<i>Injury</i>	<i>Percentage of loss of earning capacity</i>
Permanent and incurable paralysis of the limbs or injuries resulting in being permanently bedridden ..	100
Permanent incurable loss of mental capacity resulting total incapacity to work or any other injury causing permanent total incapacity to work	100
Eye Injuries :	
(i) Total loss of sight in both eyes	100
(ii) Total loss of sight in one eye	50
Hearing Injuries :	
(i) Total loss of hearing	60
(ii) Total loss of hearing in one ear	30
Loss of Speech:	
(i) Total loss of speech	75
Sensory Loss	
(i) Total loss of senses of smell and taste	50
(ii) Total loss of sense of smell	25
(iii) Total loss of sense of taste.. .. .	25
Arm Injures :	
(i) Loss of arm at or above elbow	75
(ii) Loss of arm at or above elbow	65
Hand Injuries :	
(i) Loss of both hands	100
(ii) Loss of hand or loss of thumb and 4 fingers.. .. .	65
(iii) Loss of thumb (both phalanges)	35
(iv) Loss of thumb (one phalanx)	20
(v) Loss of four fingers	60
Loss of Index finger :	
(i) Three phalanges	30
(ii) Two phalanx	20
(iii) One phalanx	10
Loss of middle, ring and little fingers	
(i) Three phalanges	20
(ii) Two phalanges	10
(iii) One phalanx	05
Loss of Leg :	
(i) at or above knee	75
(ii) at or below knee	65

WORKMEN'S COMPENSATION

<i>Injury</i>	<i>Percentage of loss of earning capacity</i>
Foot Injuries	
(i) Loss of both feet	100
(ii) Loss of one foot	75
Loss of Toes :	
(i) Great toe-both phalages	20
(ii) Great toe-one phalanx	10
(iii) Other than great toe, if more than one lost, each	10
Miscellaneous :	
(i) Total loss of genitals	75
(ii) Partial loss of genital	40
(iii) Severe facial scarring or disfigurement	75
(iv) Severe bodily disfigurement, other than facial scarring or disfigurement to a maximum of	50
(v) Loss of single tooth	05
(vi) Loss any member or part there of not mentioned above (e.g.nse, breast, ear etc.) to be assessed by a medical officer up to a maximum of	50

Note:

Assessment not to exceed 100% in any one accident